

REFINITIV

# DELTA REPORT

## 10-Q

TNYA - TENAYA THERAPEUTICS, INC.

10-Q - SEPTEMBER 30, 2023 COMPARED TO 10-Q - JUNE 30, 2023

The following comparison report has been automatically generated

**TOTAL DELTAS** 794

<span style="color: yellow;">█</span>	<b>CHANGES</b>	159
<span style="color: pink;">█</span>	<b>DELETIONS</b>	322
<span style="color: green;">█</span>	<b>ADDITIONS</b>	313

---

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, DC 20549**

---

**FORM 10-Q**

---

(Mark One)

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

For the quarterly period ended **June** **September** 30, 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: 001-40656

**TENAYA THERAPEUTICS, INC.**

(Exact name of registrant as specified in its charter)

---

**Delaware**

**81-3789973**

(State or other jurisdiction of

(I.R.S. Employer

incorporation or organization)

Identification No.)

**171 Oyster Point Boulevard, Suite 500**

**South San Francisco, CA**

**94080**

(Address of principal executive offices)

(Zip Code)

**(650) 825-6990**

(Registrant's telephone number, including area code)

---

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 \$0.0001 per share		TNYA	Nasdaq Global Select Market

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 <input type="checkbox"/>	Accelerated filer <input type="checkbox"/>
Non-accelerated filer <input type="checkbox"/>	Smaller reporting company <input type="checkbox"/>
Emerging growth company <input type="checkbox"/>	

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.

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

As of August 3, 2023 November 2, 2023, the registrant had 67,865,158 68,111,019 shares of common stock, \$0.0001 par value per share, outstanding.

## Table of Contents

### PART I—FINANCIAL INFORMATION

Page

Item 1.	<a href="#"><u>Financial Statements (Unaudited)</u></a>	5
	<a href="#"><u>Condensed Balance Sheets as of June 30, 2023 September 30, 2023 and December 31, 2022</u></a>	5
	<a href="#"><u>Condensed Statements of Operations and Comprehensive Loss for the three and six nine months ended June 30, 2023 September 30, 2023 and 2022</u></a>	6
	<a href="#"><u>Condensed Statements of Stockholders' Equity for the three and six nine months ended June 30, 2023 September 30, 2023 and 2022</u></a>	7
	<a href="#"><u>Condensed Statements of Cash Flows for the six nine months ended June 30, 2023 September 30, 2023 and 2022</u></a>	9
	<a href="#"><u>Notes to Unaudited Condensed Financial Statements</u></a>	10
Item 2.	<a href="#"><u>Management's Discussion and Analysis of Financial Condition and Results of Operations</u></a>	18
Item 3.	<a href="#"><u>Quantitative and Qualitative Disclosures About Market Risk</u></a>	24
Item 4.	<a href="#"><u>Controls and Procedures</u></a>	24

## PART II—OTHER INFORMATION

Item 1.	<a href="#"><u>Legal Proceedings</u></a>	26
Item 1A.	<a href="#"><u>Risk Factors</u></a>	26
Item 2.	<a href="#"><u>Unregistered Sales of Equity Securities and Use of Proceeds</u></a>	73
Item 3.	<a href="#"><u>Defaults Upon Senior Securities</u></a>	73
Item 4.	<a href="#"><u>Mine Safety Disclosures</u></a>	73
Item 5.	<a href="#"><u>Other Information</u></a>	73
Item 6.	<a href="#"><u>Exhibits</u></a>	74
	<a href="#"><u>SIGNATURES</u></a>	76

---

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

This Quarterly Report on Form 10-Q, or Quarterly Report, contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Act of 1934. All statements other than statements of historical facts contained in this Quarterly Report, including statements regarding our future results of operations and financial position, business strategy, development plans, planned preclinical studies and clinical trials, future results of clinical trials, expected research and development costs, regulatory strategy, timing and likelihood of success, as well as plans and objectives of management for future operations, are forward-looking statements. In some cases, investors can identify forward-looking statements by terms such as "may," "will," "should," "would," "expect," "plan," "anticipate," "could," "intend," "target," "project," "contemplate," "believe," "estimate," "predict," "potential" or "continue" or the negative of

these terms or other similar expressions. These forward-looking statements include, but are not limited to, statements about:

- our vision to change the treatment paradigm for heart disease;
- the ability of our ongoing preclinical studies and ongoing or planned clinical trials to demonstrate safety and efficacy of our product candidates, and other positive results;
- the timing, dosing, patient enrollment and populations, progress, and results of preclinical studies and ongoing or planned clinical trials for our current product candidates and other product candidates we may develop;
- the timing, scope and likelihood of regulatory filings and approvals, including timing of investigational new drugs (INDs), clinical trial applications (CTAs), U.S. Food and Drug Administration (FDA) approvals, and final regulatory approval of our current product candidates and any other future product candidates;
- our ability to develop and advance our current product candidates and programs into, and successfully complete, clinical trials;
- the size of the market opportunity for our product candidates, including our estimates of the number of patients who suffer from the diseases we are targeting;
- our manufacturing, commercialization, and marketing capabilities and strategy;
- our competitive position and the success of competing therapies that are or may become available;
- our plans relating to the further development of our product candidates, including additional indications and targets we may pursue;
- the impact of existing laws and regulations and regulatory developments in the United States (U.S), Europe and other jurisdictions;
- our intellectual property position, including the scope and length of protection we are able to establish and maintain for intellectual property rights covering our current product candidates and other product candidates we may develop, including the extensions of existing patent terms where available, the validity of intellectual property rights held by third parties, and our ability not to infringe, misappropriate or otherwise violate any third-party intellectual property rights;
- our continued reliance on third parties to conduct additional preclinical studies and clinical trials of our product candidates, and for the development and manufacture of our product candidates for preclinical studies and clinical trials;
- our ability to obtain, and negotiate favorable terms of, any collaboration, partnership, licensing or other arrangement that may be necessary or desirable to develop, manufacture or commercialize our product candidates;
- the pricing and reimbursement of our current product candidates and other product candidates we may develop, if approved, including any increase in demand as a result of the availability of reimbursement from the government and third-party payors;
- the rate and degree of market acceptance and clinical utility of our current product candidates and other product candidates we may develop;
- our estimates regarding expenses, operating losses, future revenue, cash outlays, capital requirements and needs for additional financing, including expenses arising as a result of being a public company;
- our financial performance;

- our facilities;
- the period over which we estimate our existing cash, cash equivalents and investments in marketable securities will be sufficient to fund our future operating expenses and capital expenditure requirements;

3

---

- the impact of critical accounting policies on investor's ability to understand our financial performance; and
- our expectations regarding the period during which we will remain an emerging growth company under the Jumpstart Our Business Startups Act of 2012 (JOBS Act).

We have based these forward-looking statements largely on our current expectations and projections about our business, the industry in which we operate and financial trends that we believe may affect our business, financial condition, results of operations and prospects, and these forward-looking statements are not guarantees of future performance or development. These forward-looking statements speak only as of the date of this Quarterly Report and are subject to a number of risks, uncertainties and assumptions described in the section titled "Risk Factors" and elsewhere in this Quarterly Report. Because forward-looking statements are inherently subject to risks and uncertainties, some of which cannot be predicted or quantified, investors should not rely on these forward-looking statements as predictions of future events. The events and circumstances reflected in our forward-looking statements may not be achieved or occur and actual results could differ materially from those projected in the forward-looking statements. Except as required by applicable law, we do not plan to publicly update or revise any forward-looking statements contained herein, whether as a result of any new information, future events or otherwise.

In addition, statements that "we believe" and similar statements reflect our beliefs and opinions on the relevant subject. These statements are based upon information available to us as of the date of this Quarterly Report, and while we believe such information forms a reasonable basis for such statements, such information may be limited or incomplete, and our statements should not be read to indicate that we have conducted an exhaustive inquiry into, or review of, all potentially available relevant information. These statements are inherently uncertain and investors are cautioned not to unduly rely upon these statements.

4

---

## **PART I - FINANCIAL INFORMATION**

### **Item 1. Financial Statements.**

#### **TENAYA THERAPEUTICS, INC.**

##### **Condensed Balance Sheets**

*(In thousands)*

*(Unaudited)*

	June 30, 2023	December 31, 2022	September 30, 2023	December 31, 2022
<b>ASSETS</b>				
Current assets:				
Cash and cash equivalents	\$ 75,565	\$ 95,272	\$ 82,153	\$ 95,272
Short-term investments in marketable securities	56,940	91,255	39,600	91,255
Prepaid expenses and other current assets	6,401	7,227	5,075	7,227
Total current assets	138,906	193,754	126,828	193,754
Property and equipment, net	47,039	51,032	45,131	51,032
Operating lease right-of-use assets	10,133	11,663	9,337	11,663
Long-term investments in marketable securities	19,136	17,703	6,367	17,703
Other noncurrent assets	5,540	4,793	5,734	4,793
<b>Total assets</b>	<b>\$ 220,754</b>	<b>\$ 278,945</b>	<b>\$ 193,397</b>	<b>\$ 278,945</b>
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>				
Current liabilities:				
Accounts payable	\$ 8,484	\$ 9,578	\$ 5,902	\$ 9,578
Accrued and other current liabilities	8,986	10,664	10,321	10,664
Operating lease liabilities, current	3,447	4,006	3,154	4,006
Total current liabilities	20,917	24,248	19,377	24,248
Operating lease liabilities, noncurrent	9,657	11,093	8,890	11,093
Other noncurrent liabilities	240	228	246	228
<b>Total liabilities</b>	<b>30,814</b>	<b>35,569</b>	<b>28,513</b>	<b>35,569</b>
Commitments and contingencies (Note 6)				
Stockholders' equity:				
Common stock	7	7	7	7
Additional paid-in capital	534,470	522,945	538,485	522,945
Accumulated other comprehensive loss	(333)	(378)	(261)	(378)
<b>Accumulated deficit</b>	<b>(344,204)</b>	<b>(279,198)</b>	<b>(373,347)</b>	<b>(279,198)</b>

Total stockholders' equity	189,940	243,376	164,884	243,376
Total liabilities and stockholders' equity	\$ 220,754	\$ 278,945	\$ 193,397	\$ 278,945

*The accompanying notes are an integral part of these unaudited condensed financial statements.*

**TENAYA THERAPEUTICS, INC.**

**Condensed Statements of Operations and Comprehensive Loss**

*(In thousands, except share and per share data)*

*(Unaudited)*

	Three Months Ended		Six Months Ended		Three Months Ended		Nine Months Ended	
	June 30,		June 30,		September 30,		September 30,	
	2023	2022	2023	2022	2023	2022	2023	2022
Operating expenses:								
Research and development	26,4	20,8	52,0	45,0	23,0	23,7	75,1	68,7
General and administrative	\$ 77	\$ 76	\$ 82	\$ 31	\$ 91	\$ 58	\$ 73	\$ 89
Total operating expenses	8,62	7,74	16,7	14,7	7,82	7,54	24,5	22,2
Loss from operations	7	3	45	42	9	0	74	82
	35,1	28,6	68,8	59,7	30,9	31,2	99,7	91,0
	04	19	27	73	20	98	47	71
	(35,	(28,	(68,	(59,	(30,9	(31,2	(99,7	(91,0
	104)	619)	827)	773)	20)	98)	47)	71)
Other income (expense), net:								
Other income, net:								
Interest income	1,83		3,81		1,77		5,58	
	7	222	0	321	6	596	6	917
Other income (expense), net	(2)	—	11	(1)				
Total other income (expense), net	1,83		3,82					
Other income, net	5	222	1	320				
Total other income, net					1	6	12	5
					1,77		5,59	
					7	602	8	922

Net loss before income tax expense	(33,269)	(28,397)	(65,006)	(59,453)	(29,143)	(30,696)	(94,149)	(90,149)
Income tax expense	—	—	—	—	—	—	—	—
Net loss	(33,269)	(28,397)	(65,006)	(59,453)	(29,143)	(30,696)	(94,149)	(90,149)
Other comprehensive income (loss):								
Net unrealized gain (loss) on marketable securities	(213)	(108)	45	(598)	72	(28)	117	(626)
Comprehensive loss	(33,482)	(28,505)	\$ (64,961)	\$ (60,051)	\$ (29,071)	\$ (30,724)	\$ (94,032)	\$ (90,775)
Net loss per share, basic and diluted	(0.45)	(0.69)	\$ (0.89)	\$ (1.44)	\$ (0.39)	\$ (0.74)	\$ (1.28)	\$ (2.18)
Weighted-average shares used in computing net loss per share, basic and diluted	73,399,8	41,302,1	73,249,7	41,285,1	73,924,9	41,358,2	73,579,2	41,309,8
	47	57	02	68	37	96	00	12

*The accompanying notes are an integral part of these unaudited condensed financial statements.*

6

## TENAYA THERAPEUTICS, INC.

### Condensed Statements of Stockholders' Equity

*(In thousands, except share data)*

*(Unaudited)*

Accumulated				Accumulated					
Common Stock		Additonal Paid-in Capital	Other Comprehensive Loss	Total Stock	Common Stock	Additonal Paid-in Capital	Other Comprehensive Loss	Total Stock	
Shares	Amount	In	ve	ed	rs'	In	ve	ted	rs'

Balance as of January 1, 2023	66,85	52	(27)	24	66,85	52	79,19	24
Issuance of common stock upon exercise of stock options and vesting of restricted stock units	7,113	\$ 7	\$ 45	\$ (378)	\$ 98)	\$ 76	13	\$ 7
Vesting of early exercised stock options	8,3	—	—	—	—	—	8,3	—
Stock-based compensation	11	—	—	—	—	—	11	—
	—	—	1	—	—	1	—	—
	—	—	14	—	—	14	—	—

Other comp rehen sive incom e	—	—	—	258	—	8	—	—	—	258	—	8
Net loss	—	—	—	—	(31	(31	—	—	—	—	(3	(3
					,73	,73					1,7	1,7
	—	—	—	—	7)	7)	—	—	—	—	37)	37)
Balance as of March 31, 2023	66,86,5,424	—	—	52(120)	(31	210,95,4	66,86,5,424	—	—	52(120)	(310,935,5)	215,4
Issua nce of com mon stock in conne ction with at the mark et sales, net of issua nce costs of \$120	\$ 7\$ 60\$ (120)	—	—	\$ 35)	\$ 12	—	\$ 7\$ 60\$ (120)	—	\$ 5)	\$ 12	—	—

Issua nce of com mon stock upon exerci se of pre- funde d warra nts	30 2,5 17	— — — — — —	30 2,5 17	— — — — — —		
Issua nce of com mon stock pursu ant to empl oyee stock purch ase plan	15 0,5 75	28 — 2	28 — 2	15 0,5 75	28 — 2	28 — 2

Issuance of common stock upon exercise of stock options	10,875	—	29	—	—	29	10,875	—	29	—	—	29
Stock-based compensation	—	—	3,8	—	—	3,8	—	—	3,8	—	—	3,8
Other comprehensive loss	—	—	—	(213)	—	3)	—	—	—	(213)	—	(13)
Net loss	—	—	—	—	—	9)	—	—	—	—	—	69)
Balance as of June 30, 2023	67,865	—	53	(34)	18	9)	67,865	—	53	44,20	18	9,9
	58	\$ 7	\$ 70	\$ (333)	\$ 04)	\$ 40	58	\$ 7	\$ 70	\$ (333)	\$ 4)	\$ 40

Issua nce of com mon stock upon vestin g of restri cted	24						
stock units	5,8						
Stock- based comp ensati on	61	—	—	—	—	—	—
Other comp rehen sive incom e	4,0						
Net loss	—	—	15	—	—	—	15
Balance as of Septem ber 30, 2023	68, 11 1,0 19	\$ 7	\$ 85	\$ (261)	\$ 7)	\$ 84	(3 53 8,4 \$ (261)
	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>43)</u>
							<u>43)</u>

	Accumulated						Accumulated					
	Additio		Other		Total		Additio		Other		Total	
	onal	Compr	Accu	Stock			onal	Compr	Accu	Stock		
	Paid-	ehensi	mulat	holde			Paid-	ehensi	mulat	holde		
Common Stock	In	ve	ed	rs'			Common Stock	In	ve	ted	ders'	
Shares	Amount	Capital		Deficit	Equity		Shares	Amount	Capital	Deficit	Equity	
Balanc												
e as of	41,						41,					
Januar	29		43		(15	27	29		43		55,	8,
y 1,	1,3		4,1		5,5	8,5	1,3		4,1		53	52
2022	74	\$ 4	\$ 96	\$ (141)	\$ 33	\$ 26	74	\$ 4	\$ 96	\$ (141)	\$ 3)	\$ 6
Issu												
ance												
of												
com												
mon												
stoc												
k												
upo												
n												
exer												
cise												
of												
stoc												
k												
opti	7,6						7,6					
ons	52	—	17	—	—	17	52	—	17	—	—	17

Vesting of early exercise stock options	—	—	6	—	—	6	—	—	6	—	—	6
Stock-based compensation	—	—	2,0	—	—	2,0	—	—	2,0	—	—	2,09
Other comprehensive loss	—	—	94	—	—	94	—	—	94	—	—	4
Net loss	—	—	(490)	—	—	(90)	—	—	(490)	—	—	(90)
Balances as of March 31, 2022	41,29 9,0 26	\$ 4 \$ 13 \$ (631)	43 6,3 \$ (631)	(18 6,5 \$ 89)	24 9,0 \$ 97	41, 9,0 26	\$ 4 \$ 13 \$ (631)	(31,05 1,0 \$ 97)	(31,05 1,0 \$ 56)	(31,05 1,0 \$ 56)	(31,05 1,0 \$ 56)	(31,05 1,0 \$ 6)

Issuance of common stock upon exercise of stock options	13,186	—	28	—	—	28	13,186	—	28	—	—	28
Issuance of common stock pursuant to employee stock purchase plan	51,608	—	23	—	—	23	51,608	—	23	—	—	23

Vesting of early exercise stock options	—	—	5	—	—	5	—	—	5	—	—	5
Stock-based compensation	—	—	3,0	—	—	3,0	—	—	3,0	—	—	3,01
Other comprehensive loss	—	—	12	—	—	12	—	—	12	—	—	12
Net loss	—	—	(108)	—	—	(108)	—	—	(108)	—	—	(108)
Balance as of June 30, 2022	—	—	—	—	—	—	—	—	—	—	—	—
	41,36,3,8,20	\$ 4	\$ 88	\$ (739)	\$ 86)	\$ 67	41,36,3,8,20	\$ 4	\$ 88	\$ (739)	\$ 6)	\$ 7

Issue  
ance  
of  
com  
mon  
stoc  
k  
upo  
n  
exer  
cise  
of  
stoc  
k  
opti  
ons  
and  
vesti  
ng  
of  
restr  
icted

stoc  
k  
units  
Vesti  
ng  
of  
earl  
y  
exer  
cise  
d  
stoc  
k  
opti  
ons

10,  
86  
9 — 6 — — 6

Vesti  
ng  
of  
earl  
y  
exer  
cise  
d  
stoc  
k  
opti  
ons

Stock-based compensation	3,1	17
Net loss	—	—
Other comprehensive loss	74	—
Net loss	—	—
Balance as of September 30, 2022	89	\$ 8

*The accompanying notes are an integral part of these unaudited condensed financial statements.*

## TENAYA THERAPEUTICS, INC.

### Condensed Statements of Cash Flows

*(In thousands)*

*(Unaudited)*

Six Months Ended June 30,	Nine Months Ended September 30,

	2023	2022	2023	2022
<b>Cash flows from operating activities:</b>				
Net loss	\$ (65,006)	\$ (59,453)	\$ (94,149)	\$ (90,149)
Adjustments to reconcile net loss to net cash used in operating activities:				
Depreciation and amortization	4,325	2,263	6,506	4,350
(Accretion) amortization of (discount) premium on marketable securities	(1,056)	253		
Amortization (accretion) of premium (discount) on marketable securities			(1,371)	76
Stock-based compensation	7,345	5,106	11,360	8,280
Non-cash operating lease expense	1,530	795	2,326	1,510
Other	105	28	157	27
Changes in operating assets and liabilities:				
Prepaid expenses and other current assets	733	(438)	2,013	(3,278)
Other noncurrent assets	(726)	(132)	(658)	(672)
Accounts payable	(223)	(2,120)	(2,977)	(1,803)
Accrued and other current liabilities	(1,542)	711	(300)	2,051
Operating lease liabilities	(1,995)	(1,206)	(3,055)	(2,147)
Other noncurrent liabilities	—	7	—	13
Net cash used in operating activities	(56,510)	(54,186)	(80,148)	(81,742)
<b>Cash flows from investing activities:</b>				
Purchases of property and equipment	(837)	(15,771)	(845)	(19,835)
Purchases of marketable securities	(40,998)	(65,135)	(40,998)	(108,737)
Proceeds from maturities of marketable securities	74,984	127,550	105,484	206,250
Other	(3)	—	(7)	—
Net cash provided by investing activities	33,146	46,644	63,634	77,678
<b>Cash flows from financing activities:</b>				
Proceeds from at-the-market sales, net of issuance costs	3,868	—	3,868	—
Payment of accrued offering costs	(501)	—	(501)	—
Proceeds from exercise of stock options and employee stock purchase plan	311	275	311	281
Net cash provided by financing activities	3,678	275	3,678	281
Net change in cash, cash equivalents and restricted cash	(19,686)	(7,267)	(12,836)	(3,783)

Cash and cash equivalents and restricted cash at beginning of period	95,671	38,676	95,671	38,676
Cash and cash equivalents and restricted cash at end of period	\$ 75,985	\$ 31,409	\$ 82,835	\$ 34,893
<b>Components of cash, cash equivalents and restricted cash:</b>				
Cash and cash equivalents	\$ 75,565	\$ 31,010	\$ 82,153	\$ 34,494
Restricted cash included in other noncurrent assets	420	399	682	399
Cash, cash equivalents and restricted cash	\$ 75,985	\$ 31,409	\$ 82,835	\$ 34,893
<b>Supplemental disclosure of non-cash investing and financing activities:</b>				
Property and equipment included in accounts payable and accrued and other current liabilities	\$ 44	\$ 3,060	\$ 309	\$ 263

*The accompanying notes are an integral part of these unaudited condensed financial statements.*

## **TENAYA THERAPEUTICS, INC.**

### **Notes to Unaudited Condensed Financial Statements**

#### **1. Organization and Description of the Business**

##### ***Description of the Business***

Tenaya Therapeutics, Inc. (the Company) was incorporated in the state of Delaware in August 2016 and is headquartered in South San Francisco, California. The Company is a clinical-stage biotechnology company focused on discovering, developing and delivering curative therapies that address the underlying drivers of heart disease. The Company's lead product candidates include, TN-201, a gene therapy for myosin binding protein C3-associated hypertrophic cardiomyopathy, TN-401, a gene therapy for plakophilin 2-associated arrhythmogenic right ventricular cardiomyopathy and TN-301, a small molecule for heart failure with preserved ejection fraction, and TN-401, a gene therapy for plakophilin 2-associated arrhythmogenic right ventricular cardiomyopathy.fraction.

##### ***Liquidity***

The Company has incurred net losses since inception and expects such losses to continue in the future as it conducts research and development activities. As of **June 30, 2023** **September 30, 2023**, the Company had an accumulated deficit of **\$344.2** **373.3** million. The Company incurred a net loss of **\$65.0** **94.1** million and **\$59.5** **90.1** million during the **six** **nine** months

ended **June 30, 2023** **September 30, 2023** and 2022, respectively. The Company had **\$151.6** **128.1** million of cash, cash equivalents and investments in marketable securities as of **June 30, 2023** **September 30, 2023**.

Management recognizes the need to raise additional capital to fully implement its business plan. The Company may seek to raise capital through equity financings, debt financings, license agreements, collaborative agreements or other sources of financing. Management believes that its existing cash, cash equivalents and investments in marketable securities as of **June 30, 2023** **September 30, 2023** will be sufficient to fund the Company's operations for at least the next twelve months following the date these condensed financial statements are filed with the Securities and Exchange Commission (SEC).

## **2. Summary of Significant Accounting Policies**

### ***Basis of Presentation***

The accompanying condensed financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America (GAAP) and follow the requirements of the SEC for interim reporting. As permitted under those rules, certain footnotes or other financial information that are normally required by GAAP can be condensed or omitted.

The interim condensed balance sheet as of **June 30, 2023** **September 30, 2023**, the interim condensed statements of operations and comprehensive loss, stockholders' equity and cash flows for the **six** **nine** months ended **June 30, 2023** **September 30, 2023** and 2022 are unaudited. These unaudited interim condensed financial statements have been prepared on the same basis as the Company's annual financial statements and reflect all adjustments that are necessary for the fair statement of the Company's financial position, results of operations and cash flows for the interim periods presented. The condensed results of operations for the **six** **nine** months ended **June 30, 2023** **September 30, 2023**, are not necessarily indicative of the results to be expected for the full year or for any other future annual or interim period. The condensed balance sheet as of December 31, 2022, included herein was derived from the audited financial statements as of that date. These condensed financial statements should be read in conjunction with the Company's audited financial statements and the related notes thereto for the year ended December 31, 2022, included in Company's Annual Report on Form 10-K, filed with the SEC on March 8, 2023.

### ***Use of Estimates***

The preparation of condensed financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets, liabilities, and the disclosure of contingent assets and liabilities at the date of the condensed financial statements and the reported amounts of expenses during the reporting period. On an ongoing basis, management evaluates its estimates, including those related to clinical trial accrued liabilities, income tax valuation allowance and stock-based compensation. Management bases its estimates on historical experience, the current economic environment, and on various other assumptions that are believed to be reasonable under the circumstances. Actual results may differ from those estimates or assumptions.

### ***Significant Accounting Policies***

Except for the changes below, there have been no material revisions to the Company's significant accounting policies described in Note 2 to the consolidated financial statements included in the Company's Annual Report on Form 10-K for the year ended December 31, 2022.

### ***Marketable Securities***

The Company invests in marketable securities, primarily securities issued by the U.S. government and its agencies, commercial paper and corporate bonds. All marketable securities have been classified as available-for-sale and are carried at estimated fair value as determined based upon quoted market prices or pricing models for similar securities. Management determines the appropriate classification of its marketable debt securities at the time of purchase and reevaluates such designation at each balance sheet date. The Company evaluates securities for impairment at the end of each reporting period. Factors considered in the evaluation include whether a decline in fair value below the amortized cost basis is due to credit-related factors or non-credit-related factors, the financial condition and near-term prospect of the issuer, and the Company's intent and ability to hold the investment to allow for anticipated recovery in fair value. A credit-related impairment is recognized as an allowance on the balance sheet with a corresponding adjustment to earnings. Any impairment that is not credit-related is reported as a component of other comprehensive loss. Realized gains and losses are included in other income (expense), net. The cost of securities sold is based on the specific-identification method. Interest earned on marketable securities is included in interest income.

### ***Recently Adopted Accounting Standards***

In June 2016, the Financial Accounting Standards Board (FASB) issued Accounting Standards Update (ASU) No. 2016-13, Financial Instruments – Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments (ASU 2016-13), which replaces the existing incurred loss impairment model with an expected credit loss model. This standard requires companies to recognize an allowance for credit losses on available-for-sale debt securities rather than the prior approach of recording a reduction to the carrying value of the asset. ASU 2016-13 became effective for the Company beginning January 1, 2023. The adoption of this standard did not have a material impact on the Company's financial statements.

### **3. Fair Value Measurements**

Fair value is defined as the price that would be received to sell an asset or paid to transfer a liability (an exit price) in an orderly transaction between market participants at the reporting date. The accounting guidance establishes a three-tiered hierarchy, which prioritizes the inputs used in the valuation methodologies in measuring fair value as follows:

Level 1 - Inputs are unadjusted, quoted prices in active markets for identical assets or liabilities at the measurement date.

Level 2 - Inputs other than quoted market prices included in Level 1 are either directly or indirectly observable for the asset or liability through correlation with market data at the measurement date and for the duration of the instrument's

anticipated life.

Level 3 - Inputs reflect management's best estimate of what market participants would use in pricing the asset or liability at the measurement date. Consideration is given to the risk inherent in the valuation technique and the risk inherent in the inputs to the model.

The following tables summarize the Company's financial assets measured at fair value on a recurring basis by level within the fair value hierarchy:

	June 30, 2023					September 30, 2023														
	Val uati on					Val uati on														
	Hie rar chy	Amorti zed Cost	Unreali zed Gain	Unreali zed Loss	Fair Value	Hie rar chy	Amorti zed Cost	Unreali zed Gain	Unreali zed Loss	Fair Value										
	(In thousands)																			
<b>Assets:</b>																				
<b>Cash equiva lents:</b>																				
Money market funds	Lev el 1	4,7 85			4,7 85	Lev el 1	1,2 61			1,2 61										
U.S. treasur ies	Lev el 1	16, 151	4	—	16, 15 5	Lev el 1	43, 85	9	6	43, 86 5										
Com merci al paper	Lev el 2	32, 871			32, 86 (8) 3	Lev el 2	18, 02	6	—	18, 02 (6) 0										
Gov ern ment agencie s bonds	Lev el 2				19, 90 7	Lev el 2		7	2	18, 41 9										
<b>Mark etable secur ties:</b>																				

U.S.	Lev el 1	17, 122	5	(38)	17, 9	Lev el 1	8,3 07	—	(34)	8,2 73
Commercial paper	Lev el 2	7,4 70	—	(9)	7,4 61					
Government agencies bonds	Lev el 2	51, 822	—	(29) 6)	51, 6	Lev el 2	37, 92	—	(22) 8)	37, 69 4
Total financial assets		150 ,11	—	(35)	14 9,7		12 7,7	—	(26) 8)	12 7,5
	\$ 8	\$ 19	\$ 1)	\$ 86		\$ 92	\$ 8	\$ 8)	\$ 32	

11

December 31, 2022

	Valuation Hierarchy	Amortized Cost	Unrealized		Unrealized Loss	Fair Value				
			Gain	Loss						
(In thousands)										
<b>Assets:</b>										
<b>Cash equivalents:</b>										
Cash equivalents	Level 1	\$ 20,532	\$ —	\$ —	\$ —	\$ 20,532				
Money market funds	Level 1	7,203	—	—	—	7,203				
Commercial paper	Level 2	11,972	—	(4)	—	11,968				
Government agencies bonds	Level 2	54,569	12	—	—	54,581				
<b>Marketable securities:</b>										
U.S. treasuries	Level 1	25,273	1	(147)	—	25,127				
Commercial paper	Level 2	43,605	4	(125)	—	43,484				
Corporate bonds	Level 2	2,696	—	(18)	—	2,678				
Government agencies bonds	Level 2	37,770	9	(110)	—	37,669				
Total financial assets		\$ 203,620	\$ 26	\$ (404)	\$ —	\$ 203,242				

Money market funds and U.S. treasury securities are classified as Level 1 because they are valued using quoted market prices in active markets for identical assets. Financial instruments classified within Level 2 of the fair value hierarchy are valued based on observable inputs or can be derived from non-binding quotes from the Company's investment managers, which are based on proprietary valuation models of independent pricing services. These models generally use inputs such as observable market data, quoted market prices for similar instruments, or historical pricing trends of a security relative to its peers.

The Company believes it is more likely than not that its marketable securities in an unrealized loss position will be held until maturity or the recovery of the cost basis of the investment. To date, the Company has not recorded any allowance for credit losses on its investment securities. Based upon its quarterly impairment review, the Company determined that the unrealized losses were not attributed to credit risk, but were primarily driven by the broader change in interest rates.

As of **June 30, 2023** **September 30, 2023**, the fair value of available-for-sale marketable securities was **\$76.1** **46.0** million. **\$56.9** **39.6** million of available-for-sale marketable securities had remaining maturities of less than one year. The remaining **\$19.1** **6.4** million of marketable securities had remaining maturities between one and two years.

The carrying amount of the Company's remaining financial assets and liabilities, which include cash, receivables and payables, approximate their fair values due to their short-term nature.

#### 4. Balance Sheet Components

##### ***Property and Equipment, Net***

Property and equipment, net consists of the following:

	June 30,		December 31,		September 30,		December 31,	
	2023		2022		2023		2022	
	(In thousands)				(In thousands)			
Leasehold improvements	\$ 25,351		\$ 23,605		\$ 25,603		\$ 23,605	
Laboratory equipment	19,659		20,537		19,770		20,537	
Manufacturing equipment	17,716		17,468		17,716		17,468	
Construction in progress	1,780		3,128		1,658		3,128	
Computer equipment and software	1,568		1,060		1,591		1,060	
Furniture and fixtures	966		910		975		910	
<b>Total property and equipment</b>	<b>\$ 67,040</b>		<b>\$ 66,708</b>		<b>\$ 67,313</b>		<b>\$ 66,708</b>	
Less: accumulated depreciation and amortization	(20,001)		(15,676)		(22,182)		(15,676)	

Total property and equipment, net	\$ <u>47,039</u>	\$ <u>51,032</u>	\$ <u>45,131</u>	\$ <u>51,032</u>
-----------------------------------	------------------	------------------	------------------	------------------

Depreciation and amortization expense for the three months ended June 30, 2023 September 30, 2023 and 2022 was \$2.2 million and \$1.3 million, respectively. Depreciation and amortization expense for the six months ended June 30, 2023 September 30, 2023 and 2022 was \$4.3 million and \$2.3 million, respectively.

### ***Accrued and Other Current Liabilities***

Accrued and other current liabilities consist of the following:

	June 30,		December 31,		September 30,		December 31,	
	2023		2022		2023		2022	
	(In thousands)				(In thousands)			
Accrued compensation and related expenses	\$ 4,778		\$ 6,299		\$ 6,362		\$ 6,299	
Accrued research and development expenses	2,206		3,214		2,361		3,214	
Accrued facility management services	608		—					
Accrued professional services	500		482		518		482	
ESPP deduction liability	116		124		441		124	
Accrued facility management services					181		—	
Other current liabilities	778		545		458		545	
Total accrued and other current liabilities	\$ 8,986		\$ 10,664		\$ 10,321		\$ 10,664	

## **5. License Agreements**

### ***Gladstone License Agreement***

In October 2016, the Company entered into a license agreement with the J. David Gladstone Institute (Gladstone), pursuant to which Gladstone granted the Company a worldwide, royalty-bearing exclusive patent license and a non-exclusive technology license to develop and commercialize certain products for certain diseases (Gladstone License Agreement). Pursuant to the Gladstone License Agreement, the Company is obligated, among other things, to pay Gladstone (i) annual license maintenance fees ranging from \$25,000 up to \$0.1 million per year, which will be creditable against royalties paid in the following twelve month period, (ii) milestone payments up to \$4.1 million for royalty-bearing products directed to a particular target, which are contingent upon achieving specific clinical and commercialization milestone events, and (iii) tiered low-single digit royalties on future net sales of each royalty-bearing product. Under the agreement, the Company is subject to diligence requirements to develop and commercialize at least one royalty-bearing product. The Company may pay \$50,000 to \$100,000 to extend the deadline for its diligence milestone obligations for up to

four additional one-year terms. Dr. Deepak Srivastava, M.D., a member of the Company's board of directors, serves as President of Gladstone. As of **June 30, 2023** **September 30, 2023**, the Company has not recognized any milestone and royalty payments under the Gladstone License Agreement.

During the three and **six** **nine** months ended **June 30, 2023** **September 30, 2023** and 2022, there were no material amounts recorded related to annual license fees payable pursuant to the Gladstone License Agreement.

13

---

### ***University of Texas Southwestern License Agreements***

In January 2020, the Company entered into a license agreement with the University of Texas Southwestern (UTSW License), pursuant to which UTSW granted the Company a royalty-bearing exclusive and sublicensable patent license and a non-exclusive, non-sublicensable license for certain materials. Under the UTSW License, the Company is obligated to pay UTSW (i) a non-refundable

13

---

upfront license fee of \$0.1 million, (ii) milestone payments up to a total of \$14.8 million in aggregate, which are contingent upon achieving specific development and commercialization milestone events, and (iii) royalties on future net sales of each royalty-bearing product ranging in the low-single digits. As of **June 30, 2023** **September 30, 2023**, the Company has not recognized any milestone and royalty payments under the UTSW License.

### ***Other License Agreements***

In addition, the Company has other license agreements with various institutions and business entities, none of which are material individually or in the aggregate.

## **6. Commitments and Contingencies**

### ***Facility Leases***

In December 2016, the Company entered into a lease agreement for office and laboratory space in South San Francisco, California. The lease expires in May 2025 and the Company may renew the lease term for two additional five-year periods.

In February 2021, the Company entered into a lease agreement for the Union City Facility. The lease commenced in May 2021 and has a ten-year term with one five-year renewal option. Upon the execution of the lease agreement, the Company provided the landlord with a refundable security deposit of \$3.3 million, which was included in other noncurrent assets on the balance sheets.

In November 2021, the Company entered into a short-term sublease agreement for additional office and laboratory space in South San Francisco, California with a lease term that was initially set to expire on June 30, 2022. In May 2022, the Company entered into an amendment to extend the term for the existing sublease premise through December 31, 2022.

Under the amendment, the Company also subleased additional office and laboratory space at the same sublease premise through November 30, 2023. In October 2023, the Company entered into a second amendment for additional laboratory space and to extend the term of the sublease premise through November 30, 2024. Total lease payment under the sublease extension is \$1.5 million.

Information related to operating lease activity during the three and **three** **nine** months ended **June 30, 2023** **September 30, 2023** was as follows (in thousands):

	Three Months Ended		Six Months Ended		Three Months Ended		Nine Months Ended	
	June 30,		June 30,		September 30,		September 30,	
	2023	2022	2023	2022	2023	2022	2023	2022
(In thousands)								
Operating lease cost	1,0		2,1	1,5	1,09	1,09	3,27	2,62
	\$ 91	\$ 832	\$ 81	\$ 34	\$ 0	\$ 0	\$ 1	\$ 4
Variable lease cost	322	353	595	591	324	319	919	910
Short-term lease cost	—	240	5	465	—	244	5	709
Total lease cost	1,4	1,42	2,7	2,5	1,41	1,65	4,19	4,24
	\$ 13	\$ 5	\$ 81	\$ 90	\$ 4	\$ 3	\$ 5	\$ 3
Operating lease right-of-use assets obtained in exchange for lease obligations			2,2				2,22	
		\$ —	\$ 24				\$ —	\$ 4
Cash paid for amounts included in the measurement of lease liabilities			2,6	1,6			4,00	2,97
		\$ 46	\$ 63				\$ 0	\$ 8

As of **June 30, 2023** **September 30, 2023**, the Company's operating leases had a weighted average remaining lease term of **5.5** **5.6** years and a weighted average discount rate of **9.4** **9.6**%. Future minimum lease payments under the Company's operating leases as of **June 30, 2023** **September 30, 2023** were as follows:

	Amount	
	(In thousands)	
2023 (remaining 6 months)		\$ 2,577
2024		3,910
2025		2,445
2026		1,386
2027		1,428

Thereafter		5,477
Total undiscounted future minimum lease payments	\$	17,223
Imputed interest		(4,119)
Total operating lease liabilities	\$	13,104

14

	<b>Amount</b>
	(In thousands)
2023 (remaining 3 months)	\$ 1,223
2024	3,910
2025	2,445
2026	1,386
2027	1,428
Thereafter	5,477
Total undiscounted future minimum lease payments	\$ 15,869
Imputed interest	(3,825)
Total operating lease liabilities	\$ 12,044

### ***Asset Retirement Obligation***

Under the lease agreement for the manufacturing and office facility in Union City, the Company is contractually obligated to remove constructed leasehold improvements related to capitalized machinery and equipment (see Note 4) and to restore the leased

14

space to its original condition upon termination of the lease agreement. As of June 30, 2023 September 30, 2023, the balance of the asset retirement obligation liability was not material.

### ***Purchase Commitments***

The Company enters into contractual agreements with various suppliers in the normal course of its business, including vendors that provide machinery and equipment. All contracts are terminable, with varying provisions regarding termination. If a contract with a specific vendor were to be terminated, the Company would only be obligated for the products or services that the Company had received through the time of termination.

### ***Indemnification***

From time to time, the Company may become involved in litigation and other legal actions. The Company estimates the range of liability related to any pending litigation where the amount and range of loss can be estimated. The Company

records its best estimate of a loss when the loss is considered probable. Where a liability is probable and there is a range of estimated loss with no best estimate in the range, the Company records a charge equal to at least the minimum estimated liability for a loss contingency when both of the following conditions are met: (i) information available prior to issuance of the consolidated financial statements indicates that it is probable that a liability had been incurred at the date of the consolidated financial statements and (ii) the range of loss can be reasonably estimated. The Company was not involved in any material litigation as of **June 30, 2023** **September 30, 2023**.

In the normal course of business, the Company enters into agreements that may include indemnification provisions. Pursuant to such agreements, the Company may indemnify, hold harmless and defend an indemnified party for losses suffered or incurred by the indemnified party. In some cases, the indemnification will continue after the termination of the agreement. The maximum potential amounts of future payments the Company could be required to make under these provisions is not determinable. In addition, the Company has entered into indemnification agreements with its directors and certain officers that may require the Company, among other things, to indemnify them against certain liabilities that may arise by reason of their status or service as directors or officers. As of **June 30, 2023** **September 30, 2023**, the Company did not have any material indemnification claims that were probable or reasonably possible and, consequently, has not recorded any related liabilities.

## 7. Stock-Based Compensation

### **2021 Equity Incentive Plan**

Under the Company's 2021 Equity Incentive Plan (2021 Plan), 4,000,000 shares of the Company's common stock were initially reserved for issuance of equity awards to employees, directors, and consultants, under terms and provisions established by the board of directors. The number of shares of common stock available for issuance under the 2021 Plan automatically increases on the first day of January for a period of ten years, commencing on January 1, 2022, in an amount equal to the lesser of: 4,000,000 shares; 4% of the outstanding shares of the Company's common stock as of the last day of the immediately preceding year; or such other amount as the board of directors may determine. In addition, the Company's 2016 Equity Incentive Plan (2016 Plan) was terminated in connection with the IPO. Shares subject to awards granted under the 2016 Plan that are repurchased by or forfeited to the Company will be reserved for issuance under the 2021 Plan.

Total shares reserved and available for grant under the 2021 Plan as of **June 30, 2023** **September 30, 2023** are **1,158,849** **1,078,248**.

### **Stock Option Activity**

The following table summarizes stock option activity:

	Shares	Weighted-Average Exercise Price (in dollars)

Outstanding as of December 31, 2022	5,210,182	\$ 10.01
Granted	3,036,358	\$ 3.40
Exercised	(10,875)	\$ 2.71
Cancelled	(103,438)	\$ 5.41
Outstanding as of June 30, 2023	<u>8,132,227</u>	\$ 7.62

15

	Shares	Weighted-Average Exercise Price	
		(in dollars)	
		Shares	Price
Outstanding as of December 31, 2022	5,210,182	\$ 10.01	
Granted	3,148,158	\$ 3.43	
Exercised	(10,875)	\$ 2.71	
Cancelled	(123,119)	\$ 5.64	
Outstanding as of September 30, 2023	<u>8,224,346</u>	\$ 7.57	

Stock option awards granted to employees generally vest over a four-year period. The contractual term of stock option awards is generally 10 years from the grant date.

15

### **Stock Option Valuation**

The fair value of the Company's stock option awards is estimated on the date of grant using the Black-Scholes option pricing model using the following assumptions:

	Three Months Ended		Six Months Ended		Three Months Ended		Nine Months Ended	
	June 30,		June 30,		September 30,		September 30,	
	2023	2022	2023	2022	2023	2022	2023	2022
Expected term (in years)	5.5 – 6.1	5.5 – 6.1	5.5 – 6.1	5.5 – 6.1	6.1	5.5 – 6.1	5.5 – 6.1	5.5 – 6.1
Expected volatility	94% – 95%	96% – 97%	94% – 95%	96% – 97%	94%	96% – 97%	94% – 95%	96% – 97%
Risk-free interest rate	3.4% – 3.9%	2.8% – 3.4%	3.4% – 4.0%	1.6% – 3.4%	4.0% – 4.4%	2.9% – 3.6%	3.4% – 4.4%	1.6% – 3.6%

Expected dividend yield	—%	—%	—%	—%	—%	—%	—%	—%
-------------------------	----	----	----	----	----	----	----	----

### Restricted Stock Units (RSUs)

RSUs are awards that entitle the holder to receive freely tradable shares of the Company's common stock upon the completion of a specific period of continued service. RSUs generally vest over a two- to four-year period and are subject to forfeiture if employment terminates prior to the release of vesting restrictions. RSUs are valued at the market price of the underlying common stock on the date of grant. The Company recognizes noncash compensation expense for the fair value of RSUs on a straight-line basis over the requisite service period of the awards. The following table summarizes activity of RSUs granted to employees with service-based vesting under the 2021 Plan.

	Weighted Average			Weighted Average		
	Grant Date		Fair Value		Grant Date	
	Shares	per Share (in dollars)	Shares	per Share (in dollars)		
Unvested as of December 31, 2022	459,192	\$ 4.07	459,192	\$ 4.07		
Granted	911,813	\$ 3.06	911,813	\$ 3.06		
Vested	(8,311)	\$ 15.19	(254,172)	\$ 3.61		
Forfeited	(10,534)	\$ 3.51	(22,052)	\$ 3.82		
Unvested as of June 30, 2023	<u>1,352,160</u>	\$ 3.32				
Unvested as of September 30, 2023			1,094,781	\$ 3.34		

### 2021 Employee Stock Purchase Plan

Under the Company's 2021 Employee Stock Purchase Plan (ESPP), the Company initially reserved 800,000 shares for future issuance. The number of shares of common stock available for issuance under the ESPP automatically increases on the first day of each fiscal year beginning with 2022 in an amount equal to the lesser of: 800,000 shares; 1% of the outstanding shares of the Company's common stock as of the last day of the immediately preceding year; or such other amount as the board of directors may determine. As of **June 30, 2023** **September 30, 2023**, 1,624,717 shares were reserved for future issuance under the ESPP. Under the Company's ESPP, employees are generally eligible to participate and can purchase shares on each purchase date established semi-annually through payroll deductions at the lower of 85% of the fair market value of the Company's stock at the commencement of the offering period or each purchase date of the offering period. Each offering period spans 6 months. The ESPP permits eligible employees to purchase common stock through payroll deductions for up to 15% of qualified compensation, up to an annual limit of \$25,000 per the Internal

Revenue Service. The first offering period commenced in January 2022. For the six nine months ended June 30, 2023 September 30, 2023 and 2022, the stock-based compensation expense for ESPP was not material.

### **Stock-Based Compensation**

The following table summarizes stock-based compensation recognized in the Company's condensed statements of operations and comprehensive loss:

	Three Months Ended		Six Months Ended		Three Months Ended		Nine Months Ended	
	June 30,		June 30,		September 30,		September 30,	
	2023	2022	2023	2022	2023	2022	2023	2022
	(In thousands)							
Research and development	1,77	1,43	3,3	2,43	1,86	1,34	5,20	3,77
	\$ 2	\$ 7	\$ 43	\$ 3	\$ 1	\$ 4	\$ 4	\$ 7
General and administrative	2,05	1,57	4,0	2,67	2,15	1,83	6,15	4,50
	9	5	02	3	4	0	6	3
Total stock-based compensation	3,83	3,01	7,3	5,10	4,01	3,17	11,3	8,28
	\$ 1	\$ 2	\$ 45	\$ 6	\$ 5	\$ 4	\$ 60	\$ 0

16

## **8. Stockholders' Equity**

### **"At-the-Market" Equity Offering**

16

On August 10, 2022, the Company entered into a sales agreement (Sales Agreement) with SVB Securities LLC to establish an at-the-market (ATM) offering defined in Rule 415 under the Securities Act. Pursuant to the Sales Agreement, the Company is permitted to offer and sell, from time to time, shares of its common stock having a maximum aggregate offering price of up to \$75.0 million. During the three and six nine months ended June 30, 2023 September 30, 2023, the Company sold 535,767 shares under the ATM, resulting in proceeds of \$3.9 million, after deducting commissions of \$0.1 million pursuant to the Sales Agreement.

### **Follow-On Offering**

On November 21, 2022, the Company completed an underwritten public offering of 22,613,307 shares of its common stock at a price of \$2.60 per share and, to certain investors in lieu of common stock, pre-funded warrants to purchase 6,236,693 shares of its common stock at a price of \$2.599 per pre-funded warrant. The pre-funded warrants can be exercised at any time after issuance for an exercise price of \$0.001 per share, subject to certain ownership limitations. In

addition, the Company granted the underwriters a 30-day option to purchase up to an additional 4,327,500 shares of its common stock to cover overallotments, if any, at \$2.60 per share. On November 29, 2022, the underwriters partially exercised the option and purchased an additional 2,816,409 shares of Company's common stock. As of **June 30, 2023** **September 30, 2023**, pre-funded warrants for 302,517 shares of common stock have been exercised.

As of **June 30, 2023** **September 30, 2023**, total shares of common stock reserved for issuance, on an as-if converted basis, are as follows:

	<b>June 30, 2023</b>	<b>September 30, 2023</b>
Outstanding stock options and awards	9,484,387	9,319,127
	27	
Outstanding pre-funded warrants	5,934,176	
Stock options and awards available for future grant	1,158,849	1,078,248
Shares available for further issuance under the employee stock purchase plan	1,624,717	
Total	18,202,129	17,956,268

## 9. Income Taxes

For the **six** **nine** months ended **June 30, 2023** **September 30, 2023** and 2022, the Company did not record any income tax expense or benefit. The Company has recorded a full valuation allowance against its U.S. federal and state deferred tax assets as the Company believes it is more likely than not that the benefit will not be realized.

## 10. Net Loss Per Share

Basic and diluted loss per share are computed by dividing net loss by the weighted-average number of common shares outstanding during the reporting period. Basic weighted-average shares of common stock outstanding includes the weighted-average effect of the Company's pre-funded warrants.

The following potentially dilutive securities were not included in the calculation of diluted net loss per share as of the periods presented because the effect would have been anti-dilutive:

	<b>June 30,</b>		<b>September 30,</b>	
	<b>2023</b>	<b>2022</b>	<b>2023</b>	<b>2022</b>
Outstanding stock options and awards	9,484,387	5,234,269	9,319,127	5,266,152
Restricted stock subject to future vesting	—	14,693	—	7,773
<b>Total</b>	<b>9,484,387</b>	<b>5,248,962</b>	<b>9,319,127</b>	<b>5,273,925</b>

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

*You should read the following discussion and analysis of our financial condition and results of operations in conjunction with our condensed financial statements and related notes included elsewhere in this Quarterly Report on Form 10-Q and our audited financial statements and related notes thereto for the year ended December 31, 2022, included in our Annual Report on Form 10-K filed with the Securities and Exchange Commission on March 8, 2023, or Annual Report.*

*In addition to historical financial information, this discussion and analysis and other parts of this report contain 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, based upon current expectations that involve risks, uncertainties and assumptions. Our actual results could differ materially from those anticipated in these forward-looking statements as a result of various factors, including those set forth in the section titled "Risk Factors" under Part II, Item 1A. below. You should carefully read the "Risk Factors" to gain an understanding of the factors that could cause actual results to differ materially from our forward-looking statements. Please also see the section titled "Special Note Regarding Forward-Looking Statements."*

### **Overview**

We are a clinical-stage biotechnology company focused on discovering, developing and delivering potentially curative therapies that address the underlying drivers of heart disease. Our vision is to change the treatment paradigm for heart disease, and in doing so improve and extend the lives of millions of individuals and families.

We are advancing a deep and diverse pipeline of disease-modifying therapies that includes both gene therapies and small molecules discovered internally and developed using our product platforms and core capabilities to target defined sub-populations of patients with rare or highly prevalent forms of heart disease. All of our programs are currently being assessed in clinical trials or are in the preclinical stage; we do not have any products approved for sale and have not generated any revenue to date.

Our lead product candidates include, TN-201, a gene therapy for myosin binding protein C3 (*MYBPC3*)-associated hypertrophic cardiomyopathy (HCM), TN-301, a small molecule for heart failure with preserved ejection fraction (HFpEF), and TN-401, a gene therapy for plakophilin 2 (*PKP2*)-associated arrhythmogenic right ventricular cardiomyopathy (ARVC), and TN-301, a small molecule for heart failure with preserved ejection fraction (HFpEF).

TN-201 is our potential first-in-class gene therapy for adults and children with HCM due to *MYBPC3* gene mutations. These mutations can cause the heart walls of affected individuals to become significantly thickened, leading to fibrosis, abnormal heart rhythms, cardiac dysfunction and heart failure. HCM is a chronic, progressive condition and those diagnosed with the disease often experience significant impairment in overall quality of life. TN-201 uses a differentiated approach to deliver a functional *MYBPC3* gene to the heart utilizing a recombinant adeno-associated virus serotype 9

(AAV9) capsid to restore expression of the cardiac myosin binding protein to halt disease progression and potentially reverse the course of genetic HCM following a single intravenous injection. In January October 2023, we received notification from the FDA that clinical testing of TN-201 may proceed, and in the third quarter of 2023, we expect to begin began dosing patients in a Phase 1b multi-center, open-label clinical trial, designed to assess the safety, tolerability and efficacy of a one-time intravenous infusion of TN-201. Initial data from the trial is anticipated in 2024. TN-201 has received orphan drug designation from the FDA and orphan medicinal product designation from the European Commission (EC), and in April 2023, received Fast Track Designation from the FDA.

In order to support our development efforts for TN-201, we have initiated two noninterventional studies: a study evaluating seroprevalence to AAV9 antibodies among adults with *MYBPC3*-associated HCM, and MyClimb, a prospective and retrospective global natural history study focused on pediatric patients with *MYBPC3* mutation-associated cardiomyopathy. The objective of the natural history study is to characterize the outcomes, burden of illness, risk factors, quality of life, and biomarkers associated with disease progression in pediatric patients with cardiomyopathy due to *MYBPC3* gene mutations, as well as treatments, procedures, and patient outcomes. MyClimb complements existing disease registries focused primarily on adult patient HCM populations and may support and expedite the development of TN-201 in the pediatric patient population.

TN-401 is our AAV9-based investigational gene therapy product candidate for the treatment of ARVC caused by mutations in the *PKP2* gene. ARVC, also known as arrhythmogenic cardiomyopathy or ACM, is a chronic, progressive, familial disease characterized by ventricular arrhythmias, adverse remodeling of the heart and an increased risk of sudden cardiac death. *PKP2* mutations are the most common genetic cause of ARVC and result in a loss of key proteins needed to maintain the structural integrity and cell-to-cell signaling of heart muscle cells. In October 2023, the FDA provided clearance of our IND application to initiate clinical testing of TN-401. We plan to proceed to a Phase 1b multi-center, open-label clinical trial, designed to assess the safety, tolerability and efficacy of a one-time intravenous infusion of TN-401. Additionally, in support of our development efforts for TN-401, we have initiated a global non-interventional study to collect treatment history and seroprevalence to AAV9 antibodies data among ARVC patients who carry pathogenic or likely pathogenic *PKP2* gene mutations. TN-401 has received orphan drug designation from the FDA and orphan medicinal product designation from the EC, and in November 2023, received Fast Track Designation from the FDA.

TN-301 is our highly specific small molecule inhibitor of histone deacetylase 6 (HDAC6). TN-301 is initially being developed for the potential treatment of HFpEF. HFpEF is characterized by a stiffening of the heart muscle resulting in an inability for the left ventricle to relax properly during normal heart rhythm, referred to as diastolic dysfunction. There are several cellular processes

18

thought to underlie the pathophysiology of HFpEF, including increases in fibrosis and inflammation and defects in metabolism. Although HFpEF accounts for approximately 50% of all heart failures, there are few proven treatment options. We have completed our In October 2023, Tenaya shared positive data from its Phase 1 clinical trial of TN-301 in healthy adult participants that evaluated at the safety, tolerability, pharmacokinetics and pharmacodynamics (PD) 2023 Heart Failure Society of America (HFSA) Annual Scientific Meeting. The Phase 1 clinical trial was

conducted enrolled participants in two stages: a single-ascending stages. In Stage 1, participants received single ascending doses (SAD) and in Stage 2, participants received multiple ascending doses (MAD). TN-301 was generally well tolerated across the broad range of doses studied. Pharmacokinetic results showed overall dose (SAD) stage and a multiple-ascending dose (MAD) stage. In proportionality in the SAD stage and MAD stages of the trial, initial study with a half-life supportive of once-daily dosing. Robust HDAC6 inhibition was observed and increasing doses and exposures with TN-301 correlated with increased pharmacodynamic effects. There were no changes in histone acetylation with TN-301, underscoring the selectivity of TN-301 for HDAC6 and potentially reducing the risk of off target engagement (as measured by the PD biomarker of tubulin acetylation) was achieved at dose levels thought to be in therapeutic ranges, enabling initiation of the MAD stage of the trial. effects observed with less selective HDAC6 inhibitors or pan-HDAC inhibition. In preclinical studies, dose dependent tubulin acetylation measured in circulating blood cells was found selective HDAC6 inhibition has been shown to correlate have comparable efficacy to levels in the heart. No dose-limiting toxicities were reported during the trial and topline data are anticipated in the fourth quarter of 2023.

18

TN-401 empagliflozin, a sodium-glucose cotransporter-2 (SGLT2) inhibitor which is our other potential first-in-class AAV-based gene therapy designed to deliver a functional *PKP2* gene in adults with ARVC due to a *PKP2* genetic mutation. *PKP2* mutations can cause enlargement of the right ventricle in affected individuals, replacement of heart muscle with fibrotic tissue and fatty deposits, and severely abnormal heart rhythms (arrhythmia) that can make it harder approved for the heart to function properly and result in sudden cardiac death in some adults and children. TN-401 has demonstrated prevention treatment of disease progression and survival benefit after HFpEF. More recently, using a single dose in a validated mouse model of ARVC, as well as tolerability in a pilot non-Good Laboratory Practices toxicology and biodistribution study. We are focused on completing our IND-enabling studies for TN-401 and expect to submit disease, we demonstrated that HDAC6 inhibition co-administered with an IND to the FDA in the second half SGLT2 inhibitor demonstrated additive benefit, improving several measures of 2023 to enable clinical heart function. Taken together, these data support continued development of TN-401. TN-401 has received orphan drug designation from the FDA. Additionally, in support of our development efforts TN-301 as a potential treatment for TN-401, we have initiated a global non-interventional study to collect treatment history and seroprevalence to AAV9 antibodies data among ARVC patients who carry pathogenic or likely pathogenic *PKP2* gene mutations. with HFpEF.

In addition to our lead product candidates, we have multiple early-stage programs progressing through pre-clinical preclinical development. These programs include an AAV-based gene therapy designed to express the dwarf open reading frame gene in the heart with potentially broad utility in dilated cardiomyopathy, as well as our reprogramming program for cardiac regeneration which aims to replace heart cells lost in patients experiencing heart failure due to prior myocardial infarction. While these named programs are approaching candidate selection stage, we also have numerous earlier-stage programs emerging from our proprietary product platforms to address other forms of heart failure.

Our distinct, but interrelated Gene Therapy, Cellular Regeneration and Precision Medicine platforms and suite of integrated capabilities support our efforts to discover disease-modifying treatments focused on heart disease in a modality-agnostic manner. We also continue to invest in complementary new technologies and the optimization of our

existing proprietary capabilities, including the use of human-iPSC disease models, machine learning and phenotypic screening, gene editing, capsid engineering and novel promoter constructs to enable the discovery, design, delivery and development of therapeutics that are best suited to a given cardiovascular condition.

We have internalized and integrated both current Good Manufacturing Practices (GMP) and non-GMP AAV manufacturing capabilities to support our emerging portfolio of gene therapy and cellular regeneration product candidates. Our Genetic Medicines Manufacturing Center, a cGMP facility, is strategically located near our research labs in the San Francisco Bay Area to enable smooth scale-up of production to support our clinical studies and utilizes a modular, scalable design to produce AAV-based gene therapies under current GMP standards.

## Results of Operations

### **Comparison of the Three Months Ended June 30, 2023 September 30, 2023 and 2022:**

The following table summarizes our results of operations for the periods presented:

(in thousands, except percentages)	Three Months Ended			\$	%		
	June 30,		Change				
	2023	2022					
Operating expenses:							
Research and development	\$ 26,477	\$ 20,876	\$ 5,601		27%		
General and administrative	8,627	7,743	884		11%		
Total operating expenses	35,104	28,619	6,485		23%		
Loss from operations	(35,104)	(28,619)	(6,485)		23%		
Other income (expense), net:							
Interest income	1,837	222	1,615		727%		
Other income (expense), net	(2)	—	(2)		0%		
Total other income (expense), net	1,835	222	1,613		727%		
Net loss	\$ (33,269)	\$ (28,397)	\$ (4,872)		17%		

(in thousands, except percentages)	Three Months Ended			\$	%		
	September 30,		Change				
	2023	2022					
Operating expenses:							
Research and development	\$ 23,091	\$ 23,758	\$ (667)		(3%)		
General and administrative	7,829	7,540	289		4%		
Total operating expenses	30,920	31,298	(378)		(1%)		
Loss from operations	(30,920)	(31,298)	378		(1%)		
Other income (expense), net:							

Interest income	1,776	596	1,180	198%
Other income (expense), net	1	6	(5)	(83%)
Total other income (expense), net	1,777	602	1,175	195%
Net loss	\$ (29,143)	\$ (30,696)	\$ 1,553	(5%)

### **Research and Development Expenses**

Research and development activities account for a significant portion of our operating expenses. Research and development expenses relate primarily to discovery and development of our research programs, product candidates and proprietary platform technology, and are recognized as incurred. Internal research and development costs include, among others, employee-related costs (including salaries, benefits and stock-based compensation for employees engaged in research and development functions), laboratory supplies, other non-capital equipment utilized for in-house research, and allocated overhead costs. External research and development

19

expenses include, among others, fees paid to contract research organizations (CROs) to execute preclinical studies and clinical trials on our behalf, consulting fees and fees related to licensing agreements. We do not allocate our costs by research program, product

19

candidate or proprietary platform technology, as a significant amount of research and development expenses include internal costs, which are deployed across multiple platforms, programs, product candidates and activities.

We expense all research and development costs in the periods in which they are incurred. We enter into various agreements with CROs. Costs of certain research and development activities are recognized based on estimates generally based on an evaluation of the progress and input from external service providers.

The following table summarizes our research and development expenses for the periods presented:

(in thousands, except percentages)	Three Months Ended				Three Months Ended			
	June 30,		\$	%	September 30,		\$	%
	2023	2022	Change	Change	2023	2022	Change	Change
Personnel-related costs	9,24	5,67	3,57	63%	9,65	8,11	1,54	19%
Facility and laboratory costs	8,98	7,59	1,38		5,61	7,95	(2,3)	(29)
Outside services	7,54	7,50	4	1%	7,36	7,46	(1)	(1%)
	4	6	38	1%	5	1	(96)	(1%)

Other research and development expenses	705	104	601	578	451	233	218	94%
Total research and development expenses	26,4	20,8	5,60		23,0	23,7		
	\$ 77	\$ 76	\$ 1	27%	\$ 91	\$ 58	\$ (667)	(3%)

Research and development expenses were \$26.5 million \$23.1 million and \$20.9 million \$23.8 million for the three months ended June 30, 2023 September 30, 2023 and 2022, respectively. The year-over-year increase decrease of \$5.6 million \$0.7 million, or 27% 3%, was primarily due to:

- a decrease of \$2.3 million in facility and laboratory costs, reflecting lower costs for laboratory supplies and materials related to the IND-enabling activities; partially offset by
- an increase of \$3.6 million \$1.5 million in employee-related costs reflecting higher stock-based compensation and the employee tax credits recorded as a reduction in payroll taxes in the second quarter of 2022; and
- an increase of \$1.4 million in facility and laboratory costs, reflecting higher facility management and maintenance costs and an increase in depreciation expense, partially offset by lower costs for laboratory supplies and materials. compensation.

Outside services expenses remained flat for the three months ended June 30, 2023 September 30, 2023 when compared to the prior year period, as higher costs for clinical trial activities were offset by lower outside lab services costs relating related to the IND-enabling activities.

The process of conducting the necessary research to advance through the clinical stages and ultimately obtain regulatory approval is costly and time-consuming, and the successful development of our product candidates is highly uncertain. As a result, we cannot reasonably estimate or know the nature, timing or estimated costs of the efforts that will be necessary to complete the development of, and obtain regulatory approval for, or when and to what extent we will generate revenue from the commercialization and sale of any of our product candidates. However, we expect our research and development expenses to generally remain flat for the remainder of 2023.

### **General and Administrative**

General and administrative expenses consist of personnel-related costs (including salaries, benefits and stock-based compensation for our employees in finance, human resources and other administrative functions), legal fees, professional fees incurred for accounting, audit and tax services, information technology and facility costs not otherwise included in research and development expenses. Legal fees primarily include those related to corporate and intellectual property related matters.

General and administrative expenses were \$8.6 million \$7.8 million and \$7.7 million \$7.5 million for the three months ended June 30, 2023 September 30, 2023 and 2022, respectively. The change year-over-year increase of \$0.9 million \$0.3 million, or 11% 4%, was primarily due to an increase in stock-based compensation.

We expect that our general and administrative expenses will to generally remain flat for the remainder of 2023, as we continue to support our research and development activities and business development opportunities, and incur

professional service fees. In addition, we will continue to incur legal, accounting, insurance and other expenses in operating our business as a public company, including costs associated with regulatory and compliance activities.

### **Interest Income**

Interest income primarily consists of accretion of investments purchased at discounts and interest earned on our cash, cash equivalents and investment balances. The year-over-year increase of **\$1.6 million** **\$1.2 million** was primarily due to higher interest rates on investments and higher accretion of marketable securities.

### **Net Loss**

Net loss for the three months ended **June 30, 2023** **September 30, 2023**, was **\$33.3 million** **\$29.1 million**, compared to a net loss of **\$28.4 million** **\$30.7 million** for the three months ended **June 30, 2022** **September 30, 2022**.

20

---

### **Comparison of the Six Nine Months Ended June 30, 2023 September 30, 2023 and 2022:**

The following table summarizes our results of operations for the periods presented:

<b>(in thousands, except percentages)</b>	<b>Six Months Ended</b>			
	<b>June 30,</b>		<b>\$</b>	<b>%</b>
	<b>2023</b>	<b>2022</b>	<b>Change</b>	<b>Change</b>
Operating expenses:				
Research and development	\$ 52,082	\$ 45,031	\$ 7,051	16%
General and administrative	16,745	14,742	2,003	14%
Total operating expenses	<u>68,827</u>	<u>59,773</u>	<u>9,054</u>	<u>15%</u>
Loss from operations	(68,827)	(59,773)	(9,054)	15%
Other income (expense), net:				
Interest income	3,810	321	3,489	1,087%
Other income (expense), net	11	(1)	12	1,200%
Total other income (expense), net	<u>3,821</u>	<u>320</u>	<u>3,501</u>	<u>1,094%</u>
Net loss	<u><u>\$ (65,006)</u></u>	<u><u>\$ (59,453)</u></u>	<u><u>\$ (5,553)</u></u>	<u><u>9%</u></u>
<b>Nine Months Ended</b>				
<b>(in thousands, except percentages)</b>	<b>September 30,</b>		<b>\$</b>	<b>%</b>
	<b>2023</b>	<b>2022</b>	<b>Change</b>	<b>Change</b>
Operating expenses:				
Research and development	\$ 75,173	\$ 68,789	\$ 6,384	9%

General and administrative	24,574	22,282	2,292	10%
Total operating expenses	99,747	91,071	8,676	10%
Loss from operations	(99,747)	(91,071)	(8,676)	10%
Other income (expense), net:				
Interest income	5,586	917	4,669	509%
Other income (expense), net	12	5	7	140%
Total other income (expense), net	5,598	922	4,676	507%
Net loss	\$ (94,149)	\$ (90,149)	\$ (4,000)	4%

### Research and Development Expenses

The following table summarizes our research and development expenses for the periods presented:

(in thousands, except percentages)	Six Months Ended				Nine Months Ended			
	June 30,		\$	%	September 30,		\$	%
	2023	2022	Change	Ch	2023	2022	Change	Ch
Personnel-related costs	18,8 \$ 10	13,0 \$ 78	5,73 \$ 2	44%	28,4 \$ 68	21,1 \$ 89	7,27 \$ 9	34%
Facility and laboratory costs	18,1 51	16,1 73	1,97 8	12%	23,7 68	24,1 26	(358) (1,5	1%
Outside services	13,8 44	15,2 79	(1,4 35)	9%	21,2 09	22,7 40	(1,5 31)	7%
Other research and development expenses	1,27 7	1,55 501	155 776	%	1,72 8	1,35 734	994 %	
Total research and development expenses	52,0 \$ 82	45,0 \$ 31	7,05 \$ 1	16%	75,1 \$ 73	68,7 \$ 89	6,38 \$ 4	9%

Research and development expenses were \$52.1 million \$75.2 million and \$45.0 million \$68.8 million for the six nine months ended June 30, 2023 September 30, 2023 and 2022, respectively. The year-over-year increase of \$7.1 million \$6.4 million, or 16% 9%, was primarily due to:

- an increase of \$5.7 million \$7.3 million in employee-related costs reflecting higher stock-based compensation and the employee tax credits recorded as a reduction in payroll taxes in 2022;
- an increase of \$2.0 million in facility and laboratory costs, reflecting higher facility management cost and depreciation expense, partially offset by lower costs for laboratory supplies and materials;
- a decrease of \$1.4 million \$1.5 million in outside services costs. The year-over-year decrease was primarily driven by lower outside lab services costs relating to the reflecting lower IND-enabling activities in 2023, offset by an increase in

clinical trial activities.

### ***General and Administrative***

General and administrative expenses were \$16.7 million \$24.6 million and \$14.7 million \$22.3 million for the six nine months ended June 30, 2023 September 30, 2023 and 2022, respectively. The change of \$2.0 million \$2.3 million, or 14% 10%, was primarily due to an increase in stock-based compensation.

### ***Interest Income***

Interest income primarily consists of accretion of investments purchased at discounts and interest earned on our cash, cash equivalents and investment balances. The year-over-year increase of \$3.5 million \$4.7 million was primarily due to higher interest rates on investments and higher accretion of marketable securities.

### ***Net Loss***

Net loss for the six nine months ended June 30, 2023 September 30, 2023, was \$65.0 million \$94.1 million, compared to a net loss of \$59.5 million \$90.1 million for the six nine months ended June 30, 2022 September 30, 2022.

21

---

## **Liquidity and Capital Resources**

### ***Sources of Liquidity***

Since our inception, we have not generated any revenue and we have incurred significant net losses and negative cash flows from operations. From our inception through June 30, 2023 September 30, 2023, we have funded our operations primarily from the sale and issuance of our equity securities. As of June 30, 2023 September 30, 2023, we had cash, cash equivalents and investments in marketable securities of \$151.6 million \$128.1 million and an accumulated deficit of \$344.2 million \$373.3 million.

21

---

### ***Follow-on Offering***

On November 21, 2022, we completed an underwritten public offering of 22,613,307 shares of our common stock at a price of \$2.60 per share and, to certain investors in lieu of common stock, pre-funded warrants to purchase 6,236,693 shares of our common stock at a price of \$2.599 per pre-funded warrant under our registration statement on Form S-3 (File No. 333-266741) (the Shelf Registration Statement). The pre-funded warrants can be exercised at any time after issuance for an exercise price of \$0.001 per share, subject to certain ownership limitations. In addition, we granted the underwriters a 30-day option to purchase up to an additional 4,327,500 shares of our common stock to cover overallotments, if any, at \$2.60 per share. On November 29, 2022, the underwriters partially exercised the option and purchased an additional 2,816,409 shares of our common stock. We received total net proceeds of \$76.9 million after deducting underwriting

discounts and commissions of \$4.9 million and offering expenses of \$0.5 million. As of **June 30, 2023** **September 30, 2023**, pre-funded warrants for 302,517 shares of common stock have been exercised.

### ***"At-the-Market" Equity Offering***

On August 10, 2022, we entered into a sales agreement (the Sales Agreement) with SVB Securities LLC. Pursuant to the Sales Agreement we may sell, from time to time up to an aggregate of \$75.0 million of our common stock through an "at-the-market" offering defined in Rule 415 under the Securities Act. The \$75.0 million of common stock that may be offered, issued and sold under the Sales Agreement is included in the \$300.0 million of securities that may be offered, issued and sold by us under our registration statement on Form S-3 (File No. 333-266741). During the **three and six** **nine** months ended **June 30, 2023** **September 30, 2023**, we sold 535,767 shares under the ATM, resulting in proceeds of \$3.9 million, after deducting commissions of \$0.1 million pursuant to the Sales Agreement.

### ***Funding Requirements***

We expect our expenses and operating losses will continue to increase over the foreseeable future. The expected increase in expenses will be driven in large part by our ongoing activities, if and as we:

- continue to advance our lead product candidates, TN-201, TN-301 and **TN-401**, in and toward the clinic; **TN-401**;
- continue preclinical development of our earlier-stage product candidates and initiate additional preclinical studies using our Gene Therapy, Cellular Regeneration and Precision Medicine platforms and core capabilities;
- operate our manufacturing facility and develop our manufacturing capabilities;
- seek regulatory approval of our product candidates that successfully complete clinical trials;
- expand our operational, financial, and information systems, including personnel to support our preclinical and clinical development, manufacturing, system infrastructure, regulatory compliance and future commercialization efforts;
- continue to develop, grow, perfect, enforce and defend our intellectual property portfolio; and
- continue to incur legal, accounting, insurance and other expenses in operating our business as a public company, including costs associated with regulatory and compliance activities.

Based on our current operating plan, we believe that our existing cash, cash equivalents and investments in marketable securities will be sufficient to meet our working capital and capital expenditure needs through at least the next twelve months following the date of this Quarterly Report on Form 10-Q.

In order to complete the development of our product candidates and commercialize our product candidates, if approved, we will require substantial additional funding. Until such time as we can generate significant revenue from sales of our product candidates, if ever, we expect to finance our operations through public or private equity offerings or debt financings or other capital sources, which may include strategic collaborations or other arrangements with third parties, or other sources of financing. We may not be able to raise additional capital on terms acceptable to us or at all. To the extent that we raise additional capital through the sale of equity or convertible debt securities, the ownership interest of our stockholders will be or could be diluted, and the terms of these securities may include liquidation or other preferences that adversely affect the rights of our common stockholders. Debt financing and preferred equity financing, if available, may

involve agreements that include covenants limiting or restricting our ability to take specific actions, including restricting our operations and limiting our ability to incur liens, issue additional debt, pay dividends, repurchase our

22

common stock, make certain investments or engage in merger, consolidation, licensing or asset sale transactions. If we raise funds through strategic collaborations, partnerships and other similar arrangements with third parties, we may be required to grant rights to develop and market product candidates that we would otherwise prefer to develop and market ourselves. If we are unable to raise additional capital on acceptable terms when needed, our business, results of operations, and financial condition would be adversely affected.

Our ability to raise additional funds may be adversely impacted by continued worsening global economic conditions and the recent disruptions to, and volatility in, the credit and financial markets in the United States and worldwide. If we fail to obtain necessary capital when needed on acceptable terms, or at all, it could force us to delay, limit, reduce or terminate our product development programs, future commercialization efforts or other operations. Because of the numerous risks and uncertainties

22

associated with research, product development and commercialization of product candidates, we are unable to predict the timing or amount of our working capital requirements or when or if we will be able to achieve or maintain profitability.

### **Cash Flows**

The following table summarizes our cash flows for each of the periods presented:

	Six Months Ended		Nine Months Ended	
	June 30,		September 30,	
	2023	2022	2023	2022
<b>Net cash provided by (used in):</b>				
Operating activities	\$ (56,510)	\$ (54,186)	\$ (80,148)	\$ (81,742)
Investing activities	33,146	46,644	63,634	77,678
Financing activities	3,678	275	3,678	281
Net change in cash, cash equivalents and restricted cash	<u>\$ (19,686)</u>	<u>\$ (7,267)</u>	<u>\$ (12,836)</u>	<u>\$ (3,783)</u>

### **Operating Activities**

Net cash used in operating activities for the **six** **nine** months ended **June 30, 2023** **September 30, 2023** was **\$56.5 million** **\$80.1 million**, which consisted primarily of a net loss of **\$65.0 million** **\$94.1 million** and a net change in operating assets and liabilities of **\$3.8 million** **\$5.0 million**, partially offset by **\$12.2 million** **\$19.0 million** in non-cash charges. The

change in net operating assets and liabilities was primarily due to a decrease in operating lease liabilities of \$2.0 million and a decrease in accounts payable and accrued expenses and other current liabilities of \$1.8 million \$3.3 million and a decrease in operating lease liabilities of \$3.1 million, partially offset by a decrease of prepaid expenses and other current assets of \$2.0 million. Cash flows from operations are generally impacted by the timing of payments to vendors and vendor payment terms. The non-cash charges primarily consisted of stock-based compensation of \$7.3 million \$11.4 million and depreciation and amortization of \$4.3 million \$6.5 million.

Net cash used in operating activities for the six nine months ended June 30, 2022 September 30, 2022 was \$54.2 million \$81.7 million, which consisted primarily of a net loss of \$59.5 million \$90.1 million and a net change in operating assets and liabilities of \$3.2 million \$5.8 million, partially offset by \$8.4 million \$14.2 million in non-cash charges. The change in net operating assets and liabilities was primarily due to a decrease an increase in accounts payable prepaid expenses and accrued liabilities other current assets of \$1.4 million \$3.3 million and a decrease in operating lease liabilities of \$1.2 million \$2.1 million. Cash flows from operations are generally impacted by the timing of payments to vendors and vendor payment terms. The non-cash charges primarily consisted of stock-based compensation of \$5.1 million \$8.3 million and depreciation and amortization of \$2.3 million \$4.4 million.

### **Investing Activities**

Net cash provided by investing activities for the six nine months ended June 30, 2023 September 30, 2023 was \$33.1 million \$63.6 million, which consisted primarily of proceeds from maturities of marketable securities of \$75.0 million \$105.5 million, partially offset by purchases of marketable securities of \$41.0 million.

Net cash provided by investing activities for the six nine months ended June 30, 2022 September 30, 2022 was \$46.6 million \$77.7 million, which consisted of proceeds from maturities of marketable securities of \$127.6 million \$206.3 million, partially offset by purchases of marketable securities of \$65.1 million \$108.7 million and purchases of property and equipment of \$15.8 million \$19.8 million primarily related to our manufacturing and office space at the in Union City, Facility. California.

### **Financing Activities**

Net cash provided by financing activities for the six nine months ended June 30, 2023 September 30, 2023 was \$3.7 million, which primarily consisted of proceeds from at-the-market sales of \$3.9 million, partially offset by payments of accrued offering costs.

Net cash provided by financing activities for the six nine months ended June 30, 2022 September 30, 2022 consisted of proceeds from the exercise of stock options.

### **Contractual Obligations and Other Commitments**

As of June 30, 2023 September 30, 2023, there have been no material changes from the contractual obligations and commitments previously disclosed in our Annual Report on Form 10-K for the year ended December 31, 2022.

## Off-Balance Sheet Arrangements

Since inception, we have not engaged in any off-balance sheet arrangements as defined in the rules and regulations of the SEC.

23

## Critical Accounting Policies and Estimates

A summary of our critical accounting policies and estimates is presented in Part II, Item 7 of our Annual Report on Form 10-K for the year ended December 31, 2022. There were no material changes to our critical accounting policies and estimates during the three and **six** **nine** months ended **June 30, 2023** **September 30, 2023**.

## Recent Accounting Pronouncements

See Note 2 to our unaudited interim condensed financial statements for more information about recent accounting pronouncements, the timing of their adoption, and our assessment, to the extent we have made one yet, of their potential impact on our financial condition or results of operations.

## Emerging Growth Company and Smaller Reporting Company Status

We are an emerging growth company, as defined in the JOBS Act. We will remain an emerging growth company until the earliest to occur of: (i) the last day of the fiscal year in which we have more than \$1.235 billion in annual revenue; (ii) the date we qualify as a “large accelerated filer,” with at least \$700 million of equity securities held by non-affiliates; (iii) the date on which we have issued more than \$1.0 billion in non-convertible debt securities during the prior three-year period; and (iv) December 31, 2026.

The JOBS Act provides that an emerging growth company can take advantage of an extended transition period for complying with new or revised accounting standards, delaying the adoption of these accounting standards until they would apply to private companies. We have elected to use the extended transition period to enable us to comply with new or revised accounting standards that have different effective dates for public and private companies until the earlier of the date on which we (i) are no longer an emerging growth company and (ii) affirmatively and irrevocably opt out of the extended transition period provided by the JOBS Act. As a result, our financial statements may not be comparable to companies that comply with new or revised accounting pronouncements as of public company effective dates.

We are also a smaller reporting company, meaning that the market value of our stock held by non-affiliates is less than \$700 million and our annual revenue was less than \$100 million during the most recently completed fiscal year. We may continue to be a smaller reporting company if either (i) the market value of our stock held by non-affiliates is less than \$250 million or (ii) our annual revenue is less than \$100 million during the most recently completed fiscal year and the market value of our stock held by non-affiliates is less than \$700 million.

If we are a smaller reporting company at the time we cease to be an emerging growth company, we may continue to rely on exemptions from certain disclosure requirements that are available to smaller reporting companies. Specifically, as a smaller reporting company we may choose to present only the two most recent fiscal years of audited financial

statements in our Annual Report on Form 10-K and, similar to emerging growth company's smaller reporting companies have reduced disclosure obligations regarding executive compensation.

### **Item 3. Quantitative and Qualitative Disclosures About Market Risk**

We are a smaller reporting company, as defined by Rule 12b-2 under the Securities and Exchange Act of 1934 and in Item 10(f)(1) of Regulation S-K, and are not required to provide the information under this item.

### **Item 4. Controls and Procedures**

#### **Evaluation of Disclosure Controls and Procedures**

Our management, with the participation and supervision of our Chief Executive Officer and our Chief Financial Officer, have evaluated our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended, or the Exchange Act) as of the end of the period covered by this Quarterly Report on Form 10-Q. Based on that evaluation, our Chief Executive Officer and Chief Financial Officer have concluded that, as of the end of the period covered by this Quarterly Report on Form 10-Q, our disclosure controls and procedures are effective to provide reasonable assurance that information we are required to disclose in reports that we file or submit under the Exchange Act is recorded, processed, summarized, and reported within the time periods specified in SEC rules and forms, and that such information is accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosure. We believe that a control system, no matter how well designed and operated, cannot provide absolute assurance that the objectives of the control system are met, and no evaluation of controls can provide absolute assurance that all control issues and instances of fraud, if any, within a company have been detected.

24

---

#### **Changes in Internal Control over Financial Reporting**

There were no changes in our internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) during the quarter ended June 30, 2023 September 30, 2023 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

#### **Inherent Limitations on Effectiveness of Controls**

A control system, no matter how well designed and operated, can provide only reasonable and not absolute assurance of achieving the desired control objectives. In reaching a reasonable level of assurance, management necessarily was required to apply its judgment in evaluating the benefits of possible controls and procedures relative to their costs. In addition, the design of any system of controls is based in part upon certain assumptions about the likelihood of future events, and there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions; over time, controls may become inadequate because of changes in conditions, or the degree of compliance

with policies or procedures may deteriorate. Because of the inherent limitations in a cost-effective control system, misstatements due to error or fraud may occur and not be detected.

## PART II—OTHER INFORMATION

### Item 1. Legal Proceedings

From time to time, we may become involved in various legal proceedings that arise in the ordinary course of our business. We are not currently a party to any litigation or legal proceedings that are likely to have a material adverse effect on our business. Regardless of outcome, litigation can have an adverse impact on us because of defense and settlement costs, diversion of management resources, and other factors.

### Item 1A. Risk Factors

*Investing in our common stock involves a high degree of risk. You should carefully consider the risks described below, as well as the other information in this quarterly report and in our other public filings in evaluating our business. The occurrence of any of the events or developments described below could harm our business, financial condition, results of operations and growth prospects. In such an event, the market price of our common stock could decline, and you may lose all or part of your investment. Additional risks and uncertainties not presently known to us or that we currently deem immaterial also may impair our business operations and the market price of our common stock.*

### Risk Factors Summary

*Our ability to execute on our business strategy is subject to a number of risks and uncertainties, including those outside of our control, that could cause our actual results to be harmed, including risks regarding the following:*

- We are early in our development efforts, with a limited operating history, have only completed one clinical trial, and have no products approved for commercial sale, which may make it difficult for you to evaluate our current business and likelihood of success and future viability.
- We have not generated any product revenue to date, have incurred significant net losses since our inception, and expect to continue to incur significant net losses for the foreseeable future.
- Our ability to generate revenue and achieve profitability depends significantly on our ability to achieve several objectives relating to the discovery, development and commercialization of our product candidates, if approved.
- We require substantial additional capital to finance our operations. Raising additional capital will cause dilution to stockholders, restrict our operations or require us to relinquish rights to our technologies or product candidates. If we are unable to raise such capital when needed, or on acceptable terms, we may be forced to delay, reduce and/or eliminate one or more of our research and drug development programs or future commercialization efforts.
- Our product candidates are in the early stages of development and we have no products approved for commercial sale. If we are unable to successfully develop, receive regulatory approval for, manufacture and commercialize our product candidates, or successfully develop any other product candidates, or experience significant delays in doing so, our business will be harmed.

- We intend to identify and develop gene therapy product candidates based on novel technology, and because the regulatory landscape that governs any product candidates we may develop is rigorous, complex, uncertain and subject to change, we cannot predict the time and cost of obtaining regulatory approval, if we receive it at all, for a product candidates we may develop.
- The mechanisms of action of our product candidates are unproven, and we do not know whether we will be able to develop any drug of commercial value.
- Drug development involves a lengthy and expensive process with an uncertain outcome. The preclinical studies, clinical trials and post-marketing studies of our product candidates may not demonstrate safety and efficacy to the satisfaction of the FDA, European Medicines Agency (EMA) or other comparable foreign regulatory authorities or otherwise produce positive results and the results of preclinical studies and early clinical trials may not be predictive of future results. We may incur additional costs or experience delays in completing, or ultimately be unable to complete, the development and commercialization of our product candidates.
- Our product candidates may cause serious adverse events, toxicities or other undesirable side effects when used alone or in combination with other approved products or investigational new drugs that may result in a safety problem that could delay or prevent regulatory approval, or market acceptance, or even if approval is received, require the product to be taken off the market, include new safety warnings, contraindications or precautions, or otherwise limit their commercial potential or result in significant negative consequences.

26

---

- Due to the significant resources required for the development of product candidates, and depending on our ability to access capital, we must prioritize development of certain programs and product candidates. Moreover, we may expend our limited resources on programs or product candidates that do not yield a successful product and fail to capitalize on product candidates or indications that may be more profitable or for which there is a greater likelihood of success.
- Due to our limited manufacturing experience, there can be no assurance that we will be able to successfully manufacture product candidates to support our clinical development and commercialization plans.
- The regulatory approval processes of the FDA, EMA and other comparable foreign regulatory authorities are lengthy, time consuming and inherently unpredictable. If we are ultimately unable to obtain regulatory approval of our product candidates, we will be unable to generate product revenue and our business will be substantially harmed.
- If we are unable to obtain, maintain, protect, defend and enforce patent and other intellectual property coverage of our technology and product candidates, our competitors could develop and commercialize technology and product candidates similar or identical to ours, and our ability to commercialize our technology and product candidates may be adversely affected.
- Our commercial success depends significantly on our ability to operate without infringing, misappropriating or otherwise violating the patents and other intellectual property and proprietary rights of third parties.
- We rely on third parties to conduct our preclinical studies and our clinical trials, and plan to rely on third parties to conduct such future drug development activities. These third parties may not perform satisfactorily, including failing to meet completion deadlines, or to comply with applicable regulatory requirements, which may harm our business.

## Risks Related to Our Financial Position, Need for Additional Capital and Limited Operating History

**We are early in our development efforts, with a limited operating history, have only completed one clinical trial, and have no products approved for commercial sale, which may make it difficult for you to evaluate our current business and likelihood of success and future viability.**

We have a limited operating history upon which you can evaluate our business and prospects. We commenced operations in 2016, have only completed one clinical trial, have no products approved for commercial sale and have not generated any revenue. We are developing therapies that address the underlying drivers of heart disease, which is an unproven and highly uncertain undertaking and involves a substantial degree of risk. While we have completed our Phase 1 clinical trial evaluating TN-301 and the FDA has cleared our IND for TN-201 for evaluation in humans, all of our other product candidates remain in preclinical development and have never been tested in humans. Since our inception, we have devoted substantially all of our focus and financial resources to identifying and developing product candidates, conducting preclinical studies and clinical trials, developing our gene therapy, cellular regeneration and precision medicine platforms, acquiring technology, organizing and recruiting management and technical staff, business planning, establishing our intellectual property portfolio, raising capital, and providing general and administrative support for these operations.

We have limited experience conducting clinical trials and have not yet demonstrated our ability to successfully complete any late stage clinical trials, obtain marketing approvals, manufacture a late stage clinical- or commercial-scale product or arrange for a third party to do so on our behalf, or conduct sales and marketing activities necessary for successful product commercialization. As a result, it may be more difficult for investors to accurately predict our likelihood of success and viability than it could be if we had a longer operating history.

In addition, we may encounter unforeseen expenses, difficulties, complications, delays and other known and unknown factors and risks frequently experienced by early-stage biotechnology companies in rapidly evolving fields. We also may need to transition from a company with a research and development focus to a company capable of supporting commercial activities. We have not yet demonstrated an ability to successfully overcome such risks and difficulties, or to make such a transition. If we do not adequately address these risks and difficulties or successfully make such a transition, our business will suffer.

**We have not generated any product revenue to date, have incurred significant net losses since our inception, and expect to continue to incur significant net losses for the foreseeable future.**

We have incurred significant net losses since our inception, have not generated any product revenue to date and have financed our operations principally through issuances of our stock. Our net loss was \$65.0 million \$94.1 million for the six nine months ended June 30, 2023 September 30, 2023. As of June 30, 2023 September 30, 2023, we had an accumulated deficit of \$344.2 million \$373.3 million. Substantially all of our losses have resulted from expenses incurred in connection with our research and development programs and from general and administrative costs associated with our operations. Our product candidates will require substantial additional development time and resources before we will be able to apply for regulatory approvals and, if approved, begin generating revenue from product sales. As a result, we expect that it will be several years, if ever, before we receive approval to commercialize a product and generate revenue from product sales. Even if we succeed in

---

receiving marketing approval for and commercializing one or more of our product candidates, we expect that we will

---

continue to incur substantial research and development and other expenses in order to discover, develop and market additional potential products.

We expect to continue to incur significant expenses and increasing operating losses for the foreseeable future. The net losses we incur may fluctuate significantly from quarter to quarter such that a period-to-period comparison of our results of operations may not be a good indication of our future performance, particularly since we expect our expenses to increase if and when our product candidates progress through clinical development as product candidates in later stages of clinical development generally have higher development costs than those in earlier stages, primarily due to the increased size and duration of later-stage clinical trials. The size of our future net losses will depend, in part, on the rate of future growth of our expenses and our ability to generate revenue. Our prior losses and expected future losses have had and will continue to have an adverse effect on our working capital, our ability to fund the development of our product candidates and our ability to achieve and maintain profitability and the performance of our stock.

***Our ability to generate revenue and achieve profitability depends significantly on our ability to achieve several objectives relating to the discovery, development and commercialization of our product candidates, if approved.***

We rely on our multi-modality drug discovery platforms to identify and develop product candidates. Our business depends on the success of these platforms and the successful development, regulatory approval, manufacturing and commercialization of product candidates that we discover with these platforms. Our ability to generate revenue and achieve profitability depends significantly on our ability, or any future collaborator's ability, to achieve several objectives, including:

- successful and timely completion of preclinical and clinical development of product candidates and programs, including, but not limited to, generating sufficient data to support the initiation or continuation of clinical trials;
- submission of INDs or other regulatory applications for our planned clinical trials, obtaining regulatory approval to commence clinical trials of our product candidates, and achieving favorable results from clinical trials;
- establishing and maintaining relationships with contract research organizations (CROs) and clinical sites for the clinical development of our product candidates;
- the initiation and successful patient enrollment and completion of clinical trials on a timely basis;
- acceptable frequency and severity of adverse events in the clinical trials;
- the efficacy and safety profiles that are satisfactory to the FDA or any comparable foreign regulatory authority for marketing approval;
- timely receipt of marketing approvals from applicable regulatory authorities for any product candidates for which successfully complete clinical development;
- complying with any required post-marketing approval commitments to applicable regulatory authorities;

- operating a manufacturing facility and developing an efficient and scalable manufacturing process for our product candidates, and the timely manufacture of sufficient quantities of a product candidate for use in clinical trials and, if approved, commercialization;
- establishing and maintaining commercially viable supply and manufacturing relationships with third parties that can provide adequate, in both amount and quality, products and services to support clinical development and meet the market demand for our product candidates, if approved;
- successful commercial launch following any marketing approval, including the development of a commercial infrastructure, whether in-house or with one or more collaborators;
- successful outputs from our capsid engineering and promotor and regulator elements efforts;
- a continued acceptable safety profile following any marketing approval of our product candidates;
- the actual market-size, ability to identify patients and the demographics of patients eligible for our product candidates, which may be different than expected;
- commercial acceptance of our product candidates by patients, the medical community and third-party payors;
- our ability to distribute our products to certain segments of the patient population only accessible through restricted or closed distribution channels;
- satisfying any required post-marketing approval commitments to applicable regulatory authorities, and maintain consistent quality, purity, and potency across clinical supplies and commercial supplies for any approved product

28

---

- identifying, assessing and developing new product candidates, and our ability to expand into multiple indications;
- obtaining, maintaining, and expanding patent and other intellectual property protection, trade secret protection and regulatory exclusivity, both in the United States (U.S.) and internationally;
- protecting and enforcing our rights in our intellectual property portfolio;
- defending against third-party infringement, misappropriation, or other claims, if any;
- entering into, on favorable terms, any collaboration, licensing or other arrangements that may be necessary or desirable to develop, manufacture or commercialize our product candidates;
- obtaining coverage and adequate reimbursement by third-party payors for our products and patients' willingness to pay in the absence of such coverage and adequate reimbursement;
- obtaining additional funding to develop, manufacture and commercialize our product candidates;
- addressing any competing therapies and technological and market developments;
- managing costs, including any unforeseen costs, that we may incur as a result of nonclinical study or clinical trial delays; and
- attracting, hiring and retaining qualified and key personnel including clinical, scientific, management and administrative personnel.

We may never be successful in achieving our objectives and, even if we are, may never generate revenue that is significant or large enough to achieve profitability. If we do achieve profitability, we may not be able to sustain or increase

profitability on a quarterly or annual basis. Our failure to become and remain profitable would decrease our value and could impair our ability to maintain or further our research and development efforts, raise additional necessary capital, grow our business and continue our operations.

***We require substantial additional capital to finance our operations. Raising additional capital will cause dilution to our stockholders, restrict our operations or require us to relinquish rights to our technologies or product candidates. If we are unable to raise such capital when needed, or on acceptable terms, we may be forced to delay, reduce and/or eliminate one or more of our research and drug development programs or future commercialization efforts.***

As of **June 30, 2023** **September 30, 2023**, we had **\$151.6 million** **\$128.1 million** in cash, cash equivalents and investments in marketable securities. We expect our current cash, cash equivalents and investments in marketable securities will be sufficient to fund our current operating plan for operations through at least the next twelve months from the date of this Quarterly Report on Form 10-Q. Our estimate is based on assumptions that may prove to be wrong, and we could use our available capital resources sooner than we currently expect. Changing circumstances, some of which may be beyond our control, could cause us to consume capital significantly faster than we currently anticipate, and we may need to seek additional funds sooner than planned.

Until such time, if ever, as we can generate substantial revenues, we will be required to obtain further funding through public or private equity offerings, debt financings, collaborations and licensing arrangements or other sources, which may dilute our stockholders or restrict our operating activities.

Developing pharmaceutical products, including conducting preclinical studies and clinical trials, is a very time-consuming, expensive and uncertain process that takes years to complete. Our operations have consumed substantial amounts of cash since inception, and we expect our expenses to increase in the near- and long-term in connection with our ongoing activities, particularly as we initiate and conduct clinical trials of, and seek marketing approval for, our product candidates. Even if one or more of the product candidates that we develop is approved for commercial sale, we anticipate incurring significant costs associated with sales, marketing, manufacturing and distribution activities. Our expenses could increase beyond expectations if we are required by the FDA, EMA or other regulatory agencies to perform clinical trials or preclinical studies in addition to those that we currently anticipate. Other unanticipated costs may also arise. Because the design and outcome of our planned preclinical studies and clinical trials are highly uncertain, we cannot reasonably estimate the actual amount of resources and funding that will be necessary to successfully complete the development and commercialization of any product candidate we develop. We also expect to incur costs associated with operating as a public company. Accordingly, we will need to obtain substantial additional funding in order to continue our operations.

Our future capital requirements will depend on many factors, including, but not limited to:

- the scope, progress, results and costs of researching, developing and testing our product candidates, including conducting preclinical studies and clinical trials;
- the costs, timing and outcome of regulatory review of our product candidates;

- the number and characteristics of other product candidates that we pursue or acquire;
- the costs of future activities, including product sales, medical affairs, marketing, manufacturing and distribution, for any of our product candidates for which we receive marketing approval;
- the costs of operating our own manufacturing facility;
- the costs of manufacturing commercial-grade products and sufficient inventory to support commercial launch;
- the cost of commercialization activities, including the cost of building a sales force in anticipation of product commercialization and distribution costs;
- the revenue, if any, received from commercial sale of our products, should any of our product candidates receive marketing approval;
- the cost and timing of hiring new employees to support organizational development;
- the costs of preparing, filing and prosecuting patent applications, maintaining, protecting and enforcing our intellectual property rights and defending intellectual property-related claims;
- the effect of competing products that may limit market penetration of our products;
- the ability to establish and maintain collaborations on favorable terms, if at all;
- the extent to which we acquire or in-license other product candidates and technologies;
- the timing, receipt and amount of sales of, or milestone payments related to or royalties on, our current or future product candidates, if any;
- our need to implement additional internal systems and infrastructure, including financial and reporting systems;
- the compliance and administrative costs associated with being a public company; and
- the extent to which we acquire or invest in businesses, products, or technologies.

A change in the outcome of any of these or other factors with respect to the development of any of our product candidates could significantly change the costs and timing associated with the development of that product candidate, and many of these factors are outside of our control. We may never generate the necessary data or results required to obtain regulatory and marketing approval and achieve product sales. In addition, our product candidates, if approved, may not achieve commercial success. Accordingly, we will need to continue to rely on additional financing to achieve our business objectives.

We may seek additional capital due to favorable market conditions or strategic considerations even if we believe we have sufficient funds for our current or future operating plans. Attempting to secure additional financing may divert our management from our day-to-day activities, which may adversely affect our ability to develop our product candidates. Our failure to raise capital as and when needed or on acceptable terms would have a negative impact on our financial condition and our ability to pursue our business strategy, and we may have to delay, reduce the scope of, suspend or eliminate one or more of our **pre-clinical** **preclinical** development programs, platforms, manufacturing activities, ongoing or planned clinical trials or future commercialization efforts.

To the extent that we raise additional capital through the sale of equity or convertible debt securities, your ownership interest will be diluted, and the terms may include liquidation or other preferences that adversely affect your rights as a stockholder. Debt financing and preferred equity financing, if available, may involve agreements that include

covenants limiting or restricting our ability to take specific actions, such as incurring additional debt, maintaining certain leverage ratios, making acquisitions, engaging in acquisition, merger or collaboration transactions, selling or licensing our assets, making capital expenditures, redeeming our stock, making certain investments, declaring dividends or encumbering our assets to secure future indebtedness. Such restrictions could adversely impact our ability to conduct our operations and execute our business plan.

If we raise additional funds through upfront payments or milestone payments pursuant to strategic collaborations, strategic alliances or marketing, distribution or licensing arrangements with third parties, we may have to relinquish valuable rights to our technologies or intellectual property, future revenue streams, research programs or product candidates or grant licenses on terms that may not be favorable to us. If we are unable to raise additional funds through equity or debt financings, we may be required to delay, limit, reduce or terminate our product development or future commercialization efforts or grant rights to develop and market product candidates that we would otherwise prefer to develop and market ourselves.

30

---

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

Our net operating loss (NOL) carryforwards may be unavailable to offset future taxable income because of restrictions on their use under U.S. tax law. In addition, under Sections 382 and 383 of the Internal Revenue Code of 1986, as amended (Code), if a corporation undergoes an “ownership change” (generally defined as a cumulative change in the corporation’s ownership by “5-percent shareholders” that exceeds 50 percentage points over a rolling three-year period), the corporation’s ability to use its pre-change NOLs and certain other pre-change tax attributes to offset its post-change taxable income may be limited. Similar rules may apply under state tax laws. We have experienced such ownership changes in the past, and we may experience ownership changes in the future as a result of subsequent shifts in our stock ownership, some of which are outside our control. Consequently, our ability to use our NOLs and certain other tax attributes may be limited.

**Risks Related to the Discovery, Development, Manufacturing and Commercialization of Our Product Candidates**

***Our product candidates are in the early stages of development and we have no products approved for commercial sale. If we are unable to successfully develop, receive regulatory approval for, manufacture and commercialize our product candidates, or successfully develop any other product candidates, or experience significant delays in doing so, our business will be harmed.***

We are very early in our development efforts. Before we are able to generate any revenue from product sales, each of our programs and product candidates will require additional preclinical and/or clinical development, expansion of manufacturing capabilities and expertise, regulatory approval, building a commercial organization or successfully outsourcing commercialization, substantial investment and significant marketing efforts. Consequently, because of the

substantial operational and financial investment required to further develop and commercialize our product candidates, there is a high risk of failure and we may never succeed in developing marketable products.

If we are unable to optimize our manufacturing processes to produce product candidates that meet applicable regulatory standards, do not successfully initiate and complete our clinical trials in a timely manner or fail to achieve favorable results from our trials, we may experience significant delays or be unable to advance our programs. We cannot be certain that our clinical trials will be initiated and completed on time, if at all, or whether our planned clinical strategy will be acceptable to the FDA or comparable foreign regulatory authorities. Furthermore, any changes to our development programs may cause our product candidates to perform differently and affect the results of planned clinical trials, which could delay completion of clinical trials, require the conduct of bridging clinical trials or the repetition of one or more clinical trials, increase clinical trial costs, delay approval of our product candidates and jeopardize our ability to commercialize our product candidates, if approved, and generate revenue.

There is a high failure rate for biopharmaceutical products proceeding through clinical trials. It is not uncommon for product candidates to exhibit unforeseen safety issues or inadequate efficacy when tested in humans despite promising results in preclinical animal models or earlier clinical studies. In addition, a number of companies in the pharmaceutical and biotechnology industries have suffered significant setbacks in later stage clinical trials even after achieving promising results in earlier stage clinical trials and we may experience the same. We may also encounter regulatory delays or rejections as a result of many factors, including varying interpretations of data or changes in regulatory policy during the period of product development.

Because of the early stage of development of our programs, our ability to eventually generate significant revenues from our product candidates, which we do not expect will occur for several years, if ever, will depend on a number of factors, including those described in the Risk Factor entitled *"Our ability to generate revenue and achieve profitability depends significantly on our ability to achieve several objectives relating to the discovery, development and commercialization of our product candidates, if approved."*

We do not have control over many of these factors, including certain aspects of the manufacturing process, preclinical and clinical development, the regulatory review process and potential threats to our intellectual property rights. If we are not successful with respect to one or more of these factors, we could experience significant delays or an inability to successfully commercialize our product candidates, which would materially harm our business.

To become and remain profitable, we must develop, obtain approval for and eventually commercialize product candidates that generate significant revenue. We do not expect to receive approval of any product candidates for many years and may never succeed in these activities. Even if we obtain approval and begin commercializing one or more of our product candidates, we may never generate revenue that is significant enough to achieve profitability, as we will continue to incur substantial research and development, manufacturing and other expenditures to develop and market additional product candidates. Our failure to become or remain profitable would decrease the value of the company and could impair our ability to raise capital, maintain our research and development efforts, expand our business or continue our operations.

Even if we successfully discover and advance product candidates into clinical development, their success will be subject to all of the clinical, regulatory and commercial risks described elsewhere in this "Risk Factors" section. Accordingly, we cannot assure you that we will ever be able to discover, develop, obtain regulatory approval of, manufacture, commercialize or generate significant revenue from any product candidates.

***We intend to identify and develop gene therapy product candidates based on novel technology, and because the regulatory landscape that governs any product candidates we may develop is rigorous, complex, uncertain and subject to change, we cannot predict the time and cost of obtaining regulatory approval, if we receive it at all, for any product candidates we may develop.***

We intend to discover, develop, manufacture, and commercialize gene therapy product candidates for the heart. Our product candidates may use both known capsids, such as AAV9, as well as proprietary capsids developed in-house through our own capsid engineering efforts or licensed from third parties. Furthermore, our product candidates may also use novel heart-specific promoters and we may explore different routes-of-administration involving infusion- or injection-based catheters to support targeted delivery and efficient uptake of gene therapies for the heart. We are also establishing proprietary manufacturing processes for our product candidates. Our future success depends on the successful development of these novel therapeutic approaches.

Within the broader genetic medicine field, very few therapeutic products, including those that utilize AAV-mediated gene transfer, have received marketing authorization from the FDA, EMA or comparable foreign regulatory authorities. No AAV-based gene therapies have yet been approved for the heart, much less therapies for the heart using novel capsids or promoters or delivery methods. It is therefore difficult to determine how long it will take or how much it will cost to obtain regulatory approvals for our product candidates in the U.S., the European Union (EU) or other jurisdictions.

The regulatory requirements that will govern any novel gene therapy product candidate we develop are not entirely clear, have changed over time and are subject to further change. Even with respect to more established products that fit into the categories of gene therapies or cell therapies, the regulatory landscape is still developing. Changes in the regulatory authorities' data requirements and risk mitigation methods, including requirements resulting from safety concerns raised by regulatory authorities in clinical programs of unrelated companies in the gene therapy and cardiovascular fields in general, could have a material impact on our clinical development, increase our costs, and delay regulatory approval of our product candidates. Moreover, there is substantial overlap in those responsible for regulation of existing gene therapy products and cell therapy products. For example, in the U.S., the FDA has established the Office of Tissues and Advanced Therapies within its Center for Biologics Evaluation and Research (CBER) to consolidate the review of gene therapy and related products, and the Cellular, Tissue and Gene Therapies Advisory Committee to advise CBER on its review.

Our product candidates will need to meet safety and efficacy standards applicable to any new biologic under the regulatory framework administered by the FDA. In addition to FDA oversight and oversight by institutional review boards

(IRBs), under guidelines promulgated by the National Institutes of Health (NIH), gene therapy clinical trials are also subject to review and oversight by an institutional biosafety committee (IBC), a local institutional committee that reviews and oversees research utilizing recombinant or synthetic nucleic acid molecules at that institution. The IBC assesses the safety of the research and identifies any potential risk to public health or the environment. While the NIH guidelines are not mandatory unless the research in question is being conducted at or sponsored by institutions receiving NIH funding of recombinant or synthetic nucleic acid molecule research, many companies and other institutions not otherwise subject to the NIH guidelines voluntarily follow them. Although the FDA decides whether individual gene therapy protocols may proceed, the review process and determinations of other reviewing bodies can impede or delay the initiation of a clinical trial, even if the FDA has reviewed the trial and approved its initiation.

The same applies in the EU. The EMA's Committee for Advanced Therapies (CAT) is responsible for assessing the quality, safety, and efficacy of advanced-therapy medicinal products. Advanced-therapy medicinal products include gene therapy medicines, somatic-cell therapy medicines and tissue- engineered medicines. The role of the CAT is to prepare a draft opinion on an application for marketing authorization for a gene therapy medicinal candidate that is submitted to the EMA. In the EU, the development and evaluation of a gene therapy product must be considered in the context of the relevant EU guidelines. The EMA may issue new guidelines concerning the development and marketing authorization for gene therapy products and require that we comply with these new guidelines. As a result, the procedures and standards applied to gene therapy products and cell therapy products in the EU may be applied to any gene therapy product candidate we may develop, but that remains uncertain at this point. Furthermore, approvals by the EMA may not be indicative of what the FDA may require for approval.

Delay or failure to obtain, or unexpected costs in obtaining, the regulatory approvals necessary to bring a potential gene therapy product to market could decrease our ability to generate sufficient product revenue and our business, financial condition, results of operations and prospects could be materially harmed.

Adverse developments in preclinical studies or clinical trials conducted by others in the field of gene therapy and gene regulation products may cause the FDA, EMA, and other regulatory bodies to revise the requirements for the conduct of the clinical trials and approval of our product candidates or limit the use of products utilizing gene regulation technologies, either of which could harm our business. For example, the FDA has imposed clinical holds on various clinical trials of gene therapy product candidates being developed by other companies. In addition, the clinical trial requirements of the FDA, EMA, and other regulatory authorities and the criteria these regulators use to determine the safety and efficacy of a product candidate vary substantially according to the type, complexity, novelty, and intended use and market of the potential products. The regulatory approval process for product candidates such as ours can be more expensive and take longer than for other, better known, or more extensively studied pharmaceutical or other product candidates. Further, as we are developing novel potential treatments for diseases in which, in some

cases, there is little clinical experience with potential new endpoints and methodologies, there is heightened risk that the FDA, EMA or other regulatory bodies may not consider the clinical trial endpoints to provide clinically meaningful results, and the resulting clinical data and results may be more difficult to analyze. In addition, we may not be able to identify or develop appropriate animal disease models to enable or support planned clinical development. Any natural history studies that we may conduct or rely upon in our clinical development may not be accepted by the FDA, EMA or other regulatory authorities. Regulatory agencies administering existing or future regulations or legislation may not allow production and marketing of products utilizing gene regulation technology in a timely manner or under technically or commercially feasible conditions. In addition, regulatory action or private litigation could result in expenses, delays, or other impediments to our research programs or the commercialization of resulting products. Further, approvals by one regulatory agency may not be indicative of what other regulatory agencies may require for approval.

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

***The mechanisms of action of our product candidates are unproven, and we do not know whether we will be able to develop any drug of commercial value.***

We have discovered and are developing product candidates that have what we believe are novel mechanisms of action. Because no currently-approved drugs appear to operate via the same biochemical mechanisms as our compounds, we cannot be certain that our product candidates will result in commercially viable drugs that safely and effectively treat the indications for which we intend to develop them. The results we see for our compounds in preclinical models may not be replicated in subsequent preclinical studies or translate into similar results in humans in clinical trials, and results of early clinical trials in humans may not be predictive of the results of larger clinical trials or post-marketing studies that may later be conducted with our product candidates. As an example, patients may develop antibodies against the product candidates, or the product candidates may otherwise have a more limited duration of therapeutic effect than anticipated, resulting in decreased efficacy over time, which could delay approval and, if approved, limit the ultimate commercial value. Even if we are successful in developing and receiving regulatory approval for a product candidate for the treatment of a particular disease, we cannot be certain that it will be accepted by prescribers or be reimbursed by insurers or that we will also be able to develop and receive regulatory approval for that or other product candidates for the treatment of other diseases. If we are unable to successfully develop and commercialize our product candidates, our business will be materially harmed.

Moreover, in the event any of our competitors were to develop their own product candidates that have a similar mechanism of action to any of our product candidates, any efficacy or safety concerns identified during the development of such similar product candidates may have an adverse impact on the development of our product candidates. For example, if our competitors' product candidate having a similar mechanism of action as any of our product candidates is shown in clinical trials to give rise to serious safety concerns or have poor efficacy when administered to the target patient population, the FDA or other regulatory bodies may subject our product candidates to increased scrutiny, leading to additional delays in development and potentially decreasing the chance of ultimate approval of our product candidates.

***Drug development involves a lengthy and expensive process with an uncertain outcome. The preclinical studies, clinical trials and post-marketing studies of our product candidates may not demonstrate safety and efficacy to the satisfaction of the FDA, EMA or other comparable foreign regulatory authorities or otherwise produce positive results and the results of preclinical studies and early clinical trials may not be predictive of future results. We may incur additional costs or experience delays in completing, or ultimately be unable to complete, the development and commercialization of our product candidates.***

It is impossible to predict when or if any product candidate that we develop will prove effective or safe in humans or will receive marketing approval. Before obtaining marketing approval from the FDA, European Commission (EC), EC, following a positive opinion from the EMA, or other comparable foreign regulatory authorities for the sale of our product candidates, we must complete lengthy, complex and extensive preclinical studies and clinical trials to demonstrate with substantial evidence the safety and efficacy of such product candidates.

Preclinical and clinical testing is expensive, difficult to design and implement, can take many years to complete and its ultimate outcome is uncertain. We cannot guarantee that any of our preclinical studies or clinical trials will be initiated, conducted or completed on schedule or as planned, or at all. Failure can occur at any stage of testing. Such failure may result from a multitude of factors, including, among other things, flaws in study design, dose selection issues, placebo effects, patient enrollment criteria, novel assay design and failure to demonstrate favorable safety or efficacy traits, which could delay or prevent the submission of an IND, initiation of a clinical trial, receipt of marketing approval or our ability to commercialize our product candidates, or require us to

33

---

suspended or terminate further development of our product candidates. Moreover, the outcome of preclinical studies and early-stage clinical trials may not be predictive of the success of later clinical trials. For example, our product candidates may fail to show the desired safety and efficacy in clinical development despite positive results in preclinical studies or having successfully advanced through initial clinical trials. As a result, we cannot assure you that any preclinical studies, clinical trials or post-marketing studies that we conduct will demonstrate consistent or adequate efficacy and safety to support marketing approval.

Many companies in the pharmaceutical and biotechnology industries have suffered significant setbacks in late-stage clinical trials even after achieving promising results in preclinical testing and earlier-stage clinical trials, and we cannot be

certain that we will not face similar setbacks. Moreover, preclinical and clinical data are often susceptible to varying interpretations and analyses, and many companies that have believed their product candidates performed satisfactorily in preclinical studies and clinical trials have nonetheless failed to obtain marketing approval of their drugs. This is particularly true for clinical trials in very rare diseases, such as with certain indications we are pursuing, where the very small patient population makes it difficult or impossible to conduct two traditional, adequate and well-controlled studies, and therefore the FDA or comparable foreign regulatory authorities are often permitted to exercise flexibility in approving therapies for such diseases. Moreover, results acceptable to support approval in one jurisdiction may be deemed inadequate by another regulatory authority to support regulatory approval in that other jurisdiction. To the extent that the results of the trials are not satisfactory to the FDA or comparable foreign regulatory authorities for support of a marketing application, we may be required to expend significant resources, which may not be available to us, to conduct additional trials in support of potential approval of our product candidates. Furthermore, the failure of any of our product candidates to demonstrate safety and efficacy in any clinical trial could negatively impact the perception of our other product candidates and/or cause the FDA or comparable regulatory authorities to require additional testing before approving any of our product candidates.

We may experience numerous unforeseen events during, or as a result of, preclinical studies, clinical trials or post-marketing studies that could delay or prevent receipt of marketing approval or our ability to commercialize our product candidates, including:

- inability to generate sufficient preclinical, toxicology, or other *in vivo* or *in vitro* data to support the initiation of clinical trials;
- delays in sufficiently developing, characterizing or controlling a manufacturing process suitable for clinical trials;
- receipt of feedback from regulatory authorities that requires us to modify the design of our clinical trials;
- preclinical study or clinical trial observations or results that require us to modify the design of our clinical trials;
- negative or inconclusive preclinical study or clinical trial results that may require us to conduct additional preclinical studies or clinical trials or abandon certain research and/or drug development programs;
- obtaining approval from one or more IRBs;
- the number of patients required for clinical trials being larger than anticipated, enrollment in these clinical trials being slower than anticipated or participants dropping out of these clinical trials at a higher rate than anticipated;
- any failure or delay in reaching an agreement with CROs and clinical trial sites;
- the suspension or termination of our clinical trials, as a result of a clinical hold by regulatory authorities, for various reasons, including non-compliance with regulatory requirements, a finding that our product candidates have undesirable side effects or other unfavorable or unexpected characteristics or risks;
- changes to clinical trial protocol;
- clinical sites deviating from trial protocol or dropping out of a trial;
- the costs of preclinical studies or clinical trials being greater than anticipated;
- the supply or quality of our product candidates or other materials necessary to conduct clinical trials of our product candidates being insufficient or inadequate;

- subjects experiencing severe or unexpected drug-related adverse effects;
- selection of clinical end points that require prolonged periods of clinical observation or analysis of the resulting data;
- a facility manufacturing our product candidates or any of their components being ordered by the FDA or comparable foreign regulatory authorities to temporarily or permanently shut down due to violations of current good manufacturing practice (cGMPs), regulations or other applicable requirements, or infections or cross-contamination of product candidates in the manufacturing process;
- any changes to our manufacturing process that may be necessary or desired;

34

---

- third-party clinical investigators losing the licenses or permits necessary to perform our clinical trials, not perform our clinical trials on our anticipated schedule or consistent with the clinical trial protocol, good clinical practices (GCP) or other regulatory requirements;
- third-party contractors not performing data collection or analysis in a timely or accurate manner;
- third-party contractors becoming debarred or suspended or otherwise penalized by the FDA or other government regulatory authorities for violations of regulatory requirements, in which case we may need to find a substitute contractor, and we may not be able to use some or all of the data produced by such contractors in support of our marketing applications;
- regulators revising the requirements for approving our product candidates;
- an unsuccessful post-marketing study or failure to complete such a study;
- absence in some countries of established groups with sufficient regulatory expertise for review of AAV gene therapy protocols; and
- the potential burden of complying with a variety of foreign laws, medical standards and regulatory requirements, including the regulation of pharmaceutical and biotechnology products and treatment.

To the extent we pursue any pediatric indications or expand any approved drug product labeling to include pediatric populations, we may face additional challenges associated with clinical testing in pediatric populations, which can increase our operational costs, delay regulatory approval and commercialization, or expose us to additional liability. For example, finding qualified clinical sites that have access to sufficient pediatric populations and that are interested in participating in our clinical trials may take additional time than adult indications. There may be fewer eligible patients with the target genetic disorder or heart disease or condition applicable to our product candidate for our planned clinical trials. This may increase the time needed to enroll patients for our planned pediatric clinical trials, increase our clinical development timelines, delay approval for such pediatric indications, and increase our operational costs. We may also be required to modify the formulation or other aspects of the product candidate, as compared to the comparable product candidate intended for adult patient populations, make manufacturing changes, modify route of administration, and conduct additional clinical trials, such as bridging studies and additional safety studies before we can commence our clinical trials in pediatric populations. Any delays in our planned clinical development activities for pediatric patients could have an adverse effect on our business operations.

If we are required to conduct additional preclinical studies or clinical trials or other testing of our product candidates beyond those that we currently contemplate, if we are unable to successfully complete preclinical studies or clinical trials of our product candidates or other testing in a timely manner and if the results of these studies, trials or tests are not positive or are only modestly positive or if there are safety concerns, we may incur unplanned costs and be delayed in submitting an IND, initiating clinical trials or seeking and obtaining marketing approval. We may also decide to change the design or protocol of one or more of our planned clinical trials, which could result in increased costs and expenses and/or delays. Any delays in initiating or completing our preclinical studies or clinical trials will increase our costs, slow down our development and approval process and jeopardize our ability to commence product sales and generate revenues, including by shortening any period during which we may have the exclusive right to commercialize our product candidates and permitting our competitors to bring products to market before we do. If we receive approval, it is possible that we may receive limited or restrictive marketing approval, be subject to additional post-marketing testing requirements or have the drug removed from the market after obtaining marketing approval.

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

35

---

***Our product candidates may cause serious adverse events, toxicities or other undesirable side effects when used alone or in combination with other approved products or investigational new drugs that may result in a safety profile that could delay or prevent regulatory approval or market acceptance, or even if approval is received, require them to be taken off the market, include new safety warnings, contraindications or precautions, or otherwise limit their commercial potential or result in significant negative consequences.***

We are developing novel therapies for the treatment of heart disease. As a result, there is uncertainty as to the safety profile of product candidates we may develop. If our product candidates are associated with undesirable side effects or have unexpected characteristics in preclinical studies or clinical trials we may need to interrupt, delay or abandon their development or limit development to more narrow uses or subpopulations in which the undesirable side effects or other characteristics are less prevalent, less severe or more acceptable from a risk-benefit perspective. Treatment-related side effects could also affect patient recruitment or the ability of enrolled subjects to complete the trial or result in potential

product liability claims. There is no guarantee that our product candidates will not have side effects similar to those seen in other gene therapies or that we will be able to prevent side effects from escalating to an unsafe level for our patients. Any of these occurrences may prevent us from achieving or maintaining market acceptance of the affected product candidate and may harm our business, financial condition and prospects significantly.

Patients in our clinical trials may suffer serious adverse events or other side effects not observed in our preclinical studies or previous clinical trials. Patients treated with our product candidates may also be undergoing other therapies which can cause side effects or adverse events that are unrelated to our product candidates but may still impact the success of our clinical trials. The inclusion of critically ill patients in our clinical trials may result in deaths or other adverse medical events, either during the course of or after participating in such trials, due to other therapies or medications that such patients may be using or due to the gravity of such patients' illnesses.

If serious adverse events or other side effects are observed in any of our clinical trials, we may have difficulty recruiting patients to the clinical trials, patients may drop out of our trials, or we may be required to abandon the trials or our development efforts of that product candidate altogether. We, the FDA, EMA, other comparable regulatory authority or an IRB may suspend clinical trials of a product candidate at any time for various reasons, including a belief that subjects in such trials are being exposed to unacceptable health risks or adverse side effects. Some potential therapeutics developed in the biotechnology industry that initially showed therapeutic promise in early-stage trials have later been found to cause side effects that prevented their further development. Even if the side effects do not preclude the product candidate from obtaining or maintaining marketing approval, undesirable side effects may inhibit market acceptance due to its tolerability versus other therapies, result in marketing approval with restrictive label warnings or for limited patient populations, or result in potential product liability claims. Any of these developments could materially harm our business, financial condition and prospects. Further, if any of our product candidates obtains marketing approval, toxicities associated with such product candidates previously not seen during clinical testing may also develop after such approval and lead to a requirement to conduct additional clinical safety trials, additional contraindications, warnings and precautions being added to the drug label, significant restrictions on the use of the product or the withdrawal of the product from the market. No regulatory agency has made any determination that any of our product candidates or discovery programs is safe or effective for use by the general public for any indication. We cannot predict whether our product candidates will cause toxicities in humans that would preclude regulatory approval, or if approved, lead to the revocation of regulatory approval based on preclinical studies or early-stage clinical trials.

***The outcome of preclinical studies and early clinical trials may not be predictive of the success of later clinical trials, and the results of our clinical trials may not satisfy the requirements of the FDA, EMA or other comparable foreign regulatory authorities.***

We will be required to demonstrate with substantial evidence through well-controlled clinical trials that our product candidates are safe and effective for use in a diverse population before we can seek marketing approvals for their commercial sale. Success in preclinical studies and early-stage clinical trials does not mean that future clinical trials will be successful. For instance, we do not know whether any of our product candidates will perform in our current or future preclinical studies or future clinical trials as it has in prior preclinical studies or earlier clinical trials. Product candidates in clinical trials may fail to demonstrate sufficient safety and efficacy to the satisfaction of the FDA, EMA and other

comparable foreign regulatory authorities despite having progressed through preclinical studies. Regulatory authorities may also limit the scope of later-stage trials until we have demonstrated satisfactory safety, which could delay regulatory approval, limit the size of the patient population to which we may market our product candidates, or prevent regulatory approval.

In some instances, there can be significant variability in safety and efficacy results between different clinical trials of the same product candidate due to numerous factors, including changes in trial protocols, differences in size and type of the patient populations, differences in and adherence to the dose and dosing regimen and other trial protocols and the rate of dropout among clinical trial participants. Patients treated with our product candidates may also be undergoing other therapies and may be using other approved products or investigational new drugs, which can cause side effects or adverse events that are unrelated to our product candidates. As a result, assessments of efficacy can vary widely for a particular patient, and from patient to patient and site to site within a clinical trial. This subjectivity can increase the uncertainty of, and adversely impact, our clinical trial outcomes.

36

---

We do not know whether any clinical trials we may conduct will demonstrate consistent or adequate efficacy and safety sufficient to obtain approval to market any of our product candidates.

***If we experience delays or difficulties in the enrollment and/or maintenance of patients in clinical trials, our regulatory submissions or receipt of necessary marketing approvals could be delayed or prevented.***

We may not be able to initiate or continue clinical trials for our product candidates if we are unable to locate and enroll a sufficient number of eligible patients to participate in these trials to such trial's conclusion. Patient enrollment is a significant factor in the timing of clinical trials and our ability to enroll eligible patients may be limited or slower than we anticipate.

We are developing product candidates for the treatment of heart disease, including for certain indications, such as rare genetic diseases, with limited patient pools from which to draw for clinical trials. We also may encounter difficulties in identifying and enrolling patients with a stage of disease appropriate for our planned clinical trials and monitoring such subjects adequately during and after treatment. The process of finding and diagnosing patients may prove costly. Further, the treating physicians in our clinical trials may also use their medical discretion in advising patients enrolled in our clinical trials to withdraw from our studies to try alternative therapies.

We expect patient enrollment to be affected because our competitors have ongoing clinical trials for programs that are under development for the same indications as our product candidates, and patients who would otherwise be eligible for our clinical trials could instead enroll in clinical trials of our competitors' programs. Patient enrollment for our clinical trials may be affected by other factors, including:

- size and nature of the patient population;
- the perceived risks and benefits of novel, unproven approaches;

- severity of the disease under investigation;
- availability and efficacy of approved drugs for the disease under investigation;
- ongoing clinical trials evaluating other product candidates in the same disease under investigation;
- patient eligibility criteria for the trial in question as defined in the protocol;
- perceived risks and benefits of the product candidate under study;
- clinicians' and patients' perceptions as to the potential advantages of the product candidate being studied in relation to other available therapies, including any new products that may be approved or other product candidates being investigated for the indications we are investigating;
- patient referral practices of physicians;
- challenges associated with recruiting eligible patients;
- the ability to monitor patients adequately during and after treatment;
- the activities of key opinion leaders (KOLs) and patient advocacy groups;
- proximity and availability of clinical trial sites for prospective patients; and
- the risk that patients enrolled in clinical trials will drop out of the trials before completion or, because they may have an advanced disease, will not survive the full terms of the clinical trials.

Our inability to enroll a sufficient number of patients for our clinical trials would result in significant delays or may require us to abandon one or more clinical trials altogether. Enrollment delays in our clinical trials may result in increased development costs for our product candidates and jeopardize our ability to obtain marketing approval for the sale of our product candidates. Furthermore, even if we are able to enroll a sufficient number of patients for our clinical trials, we may have difficulty maintaining participation in our clinical trials through the treatment and any follow-up periods.

***Due to the significant resources required for the development of product candidates, and depending on our ability to access capital, we must prioritize development of certain programs and product candidates. Moreover, we may expend our limited resources on programs or product candidates that do not yield a successful product and fail to capitalize on product candidates or indications that may be more profitable or for which there is a greater likelihood of success.***

Due to the significant resources required for the development of product candidates, in particular our product candidates in IND-enabling studies and those that enter into clinical trials, we must decide which programs, product candidates and indications to pursue and advance the amount of resources to allocate to each. Our decisions concerning the allocation of research, development,

collaboration, management and financial resources toward particular programs, product candidates or therapeutic areas may not lead to the development of any viable commercial product and may result in the diversion of resources away from better opportunities. Similarly, our potential decisions to delay, terminate or collaborate with third parties in respect of certain platforms, programs or product candidates may subsequently also prove to be less than optimal and could

cause us to miss valuable opportunities. If we make incorrect determinations regarding the viability or market potential of any of our programs or product candidates or misread trends in the biotechnology industry, in particular in the field of cardiology, our business could be seriously harmed. As a result, we may fail to capitalize on viable commercial products or profitable market opportunities, be required to forego or delay pursuit of opportunities with other programs, product candidates or other diseases that may later prove to have greater commercial potential than those we choose to pursue, or relinquish valuable rights to our platforms or product candidates through collaboration, licensing or other royalty arrangements in cases in which it would have been advantageous for us to invest additional resources to retain sole development and commercialization rights.

***We face significant competition and if our competitors develop and market technologies or products more rapidly than we do or that are more effective, safer or less expensive than the products we develop, our commercial opportunities will be negatively impacted.***

The biotechnology and biopharmaceutical industries are characterized by rapidly advancing technologies, intense competition and a strong emphasis on proprietary and novel products and product candidates. Our competitors have developed, are developing or may develop products, product candidates and processes competitive with our product candidates. Any product candidates that we successfully develop and commercialize will compete with existing therapies and new therapies that may become available in the future. We believe that a significant number of products are currently under development, and may become commercially available in the future, for the treatment of conditions for which we may attempt to develop product candidates.

We have competitors both in the U.S. and internationally, including major multinational pharmaceutical companies, established biotechnology companies, specialty pharmaceutical companies, emerging and start-up companies, universities and other research institutions. We also compete with other organizations to recruit management, scientists and clinical development personnel, which could negatively affect our level of expertise and our ability to execute our business plan. We will also face competition in establishing clinical trial sites, enrolling subjects for clinical trials and in identifying and in-licensing new product candidates.

We expect to face competition from existing products and products in development for each of our programs and anticipate substantial direct competition from a variety of competitors. Many of these current and potential competitors have significantly greater financial, manufacturing, marketing, drug development, technical and human resources and commercial expertise than we do. Large pharmaceutical and biotechnology companies, in particular, have extensive experience in clinical testing, obtaining regulatory approvals, recruiting patients and manufacturing biotechnology products. These companies also have significantly greater research and marketing capabilities than we do and may also have products that have been approved or are in late stages of development, and collaborative arrangements in our target markets with leading companies and research institutions. Established pharmaceutical and biotechnology companies may also invest heavily to accelerate discovery and development of novel compounds or to in-license novel compounds that could make the product candidates that we develop obsolete. Smaller or early-stage companies may also prove to be significant competitors, particularly through collaborative arrangements with large and established companies, as well as in acquiring technologies complementary to, or necessary for, our programs. As a result of all of

these factors, our competitors may succeed in obtaining approval from the FDA, EMA or other comparable foreign regulatory authorities or in discovering, developing and commercializing products in our field before we do.

Our commercial opportunity could be reduced or eliminated if our competitors develop and commercialize products that are safer, more effective, have fewer side effects, are more convenient, have a broader label, are marketed more effectively, are more widely reimbursed or are less expensive than any products that we may develop. Our competitors also may obtain marketing approval from the FDA, EMA or other comparable foreign regulatory authorities for their products more rapidly than we may obtain approval for ours, which could result in our competitors establishing a strong market position before we are able to enter the market. Due to the nature of gene therapy products, use of a competitor gene therapy product by a prospective patient may preclude use of our gene therapy product candidate at a later point in time. Even if the product candidates we develop achieve marketing approval, they may be priced at a significant premium over competitive products if any have been approved by then, resulting in reduced competitiveness. Technological advances or products developed by our competitors may render our technologies or product candidates obsolete, less competitive or not economical. If we are unable to compete effectively, our opportunity to generate revenue from the sale of our products we may develop, if approved, could be adversely affected.

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

From time to time, we may publicly disclose preliminary, interim or topline data from our clinical trials. These interim updates are based on a preliminary analysis of then-available data, and the results and related findings and conclusions are subject to change following a more comprehensive review of the data related to the particular study or trial. We also make assumptions, estimations,

calculations and conclusions as part of our analyses of data, and we may not have received or had the opportunity to fully and carefully evaluate all data. As a result, the topline results that we report may differ from future results of the same studies, or different conclusions or considerations may qualify such results, once additional data have been received and fully evaluated. Topline data also remain subject to audit and verification procedures that may result in the final data being materially different from the preliminary data we previously published. As a result, topline data should be viewed with caution until the final data is available. In addition, we may report interim analyses of only certain endpoints rather than all endpoints. Interim data from clinical trials that we may complete are subject to the risk that one or more of the clinical outcomes may materially change as patient enrollment continues and more patient data become available. Adverse changes between interim data and final data could significantly harm our business and prospects. Further, additional disclosure of interim data by us or by our competitors in the future could result in volatility in the price of our common stock.

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

***We may not be successful in our efforts to utilize our proprietary drug discovery platforms to develop a pipeline of product candidates.***

A key element of our strategy is to leverage our proprietary drug discovery platforms to develop a pipeline of product candidates to treat heart disease. In order to do so, we must continue to invest in our proprietary drug discovery platforms and development capabilities, including our internal disease modeling and capsid engineering efforts, our in-house cassette engineering capabilities to create novel promoters and regulatory elements to support our programs, and targeted drug delivery approaches for efficient uptake of gene therapies for the heart. Although our research and development efforts to date have resulted in a pipeline of product candidates, these product candidates may not be safe and effective. Our capsid engineering, promoter and regulatory elements may not be successful. In addition, although we expect that our proprietary drug discovery platforms and development capabilities will allow us to develop a diverse pipeline of product candidates, we may not prove to be successful at doing so. Furthermore, we may also find that the uses of our proprietary drug discovery platforms are limited because alternative uses of our therapeutics prove not to be safe or effective.

Even if we are successful in building our pipeline, the potential product candidates that we identify may not be suitable for clinical development, including as a result of being shown to have harmful side effects or other characteristics that indicate that they are unlikely to be products that will receive marketing approval or achieve market acceptance. Further, because our product candidates and programs are based on our proprietary drug discovery platforms, adverse developments with respect to one of our programs may have a significant adverse impact on the actual or perceived likelihood of success and value of our other programs.

In addition, the biotechnology and pharmaceutical industries are characterized by rapidly advancing technologies. Our future success will depend in part on our ability to maintain a competitive position with our approach. If we fail to stay at the forefront of technological change in utilizing our proprietary drug discovery platforms to create and develop programs and product candidates, we may be unable to compete effectively. Our competitors may render our approach obsolete or limit the commercial value of our product candidates, by advances in existing technological approaches or the development of new or different approaches, potentially eliminating the advantages in our drug discovery process that we believe we derive from our research approach and proprietary technologies. By contrast, adverse developments with respect to other companies that attempt to use a similar approach to our approach may adversely impact the actual or perceived value of our proprietary drug discovery platforms and potential of our programs and product candidates. If any

of these events occur, we may be forced to abandon our development efforts for a program or programs, which would have a material adverse effect on our business and could potentially cause us to cease operations.

***The manufacture of drugs is complex, and we or our third-party manufacturers and suppliers may encounter difficulties in production. If we or any of our third-party manufacturers or suppliers encounter such difficulties, our ability to provide adequate supply of our product candidates for preclinical studies or clinical trials or our products for patients, if approved, could be delayed or prevented.***

Manufacturing drugs, especially in large quantities, is complex and may require the use of innovative technologies. Each lot of an approved drug product must undergo thorough testing for safety identity, strength, quality, purity and potency. Manufacturing drugs requires key materials and facilities specifically designed for and validated for this purpose, as well as sophisticated QA and QC procedures. Slight deviations anywhere in the manufacturing process, including manufacturing drug substance, drug product filling, labeling, packaging, storage and shipping and quality control and testing, may result in lot failures or product recalls. When changes

39

---

are made to the manufacturing process, we may be required to provide preclinical and clinical data showing the comparable quality and efficacy of the products before and after such changes. If we or our third-party manufacturers or suppliers are unable to produce sufficient quantities for preclinical studies or clinical trials or for commercialization as a result of these challenges, or otherwise, our development and commercialization efforts would be impaired, which would have an adverse effect on our business, financial condition, results of operations and growth prospects.

***Gene therapies are novel, complex and difficult to manufacture. We could experience production problems that result in delays in development or commercialization of our product candidates, limit the supply of our products, if approved, or otherwise seriously harm our business.***

Our gene therapy product candidates require processing steps that are more complex than those required for most chemical and protein pharmaceuticals. Moreover, unlike chemical pharmaceuticals, the physical and chemical properties of a biologic such as ours generally cannot be fully characterized. As a result, assays of the finished product may not be sufficient to ensure that the product will perform in the intended manner. Accordingly, we need to employ multiple steps to control our manufacturing process to assure that the process works and the product candidate is made strictly and consistently in compliance with the process. Problems with the manufacturing process, even minor deviations from the normal process, could result in product defects or manufacturing failures that result in lot failures, product recalls, product liability claims or insufficient inventory, which could delay or prevent the initiation of clinical trials or receipt of regulatory approvals. We may encounter problems achieving adequate quantities and quality of clinical-grade materials that meet FDA, or other comparable applicable foreign regulatory authorities' standards or specifications with consistent and acceptable production yields and costs. In addition, problems in our manufacturing processes or facilities established for

our gene therapy product candidates also could restrict our ability to meet market demand for our products, if approved, which would prevent us from generating product revenue and seriously harm our business.

Should our agreement or agreements with other parties with whom we have manufacturing agreements be terminated for any reason, there are a limited number of manufacturers who would be suitable replacements, and it would take a significant amount of time to transition the manufacturing to a replacement.

***Due to our limited manufacturing experience, there can be no assurance that we will be able to successfully manufacture product candidates to support our clinical development and commercialization plans.***

We have fully integrated and internalized AAV manufacturing capabilities to support product candidates from our Gene Therapy and Cellular Regeneration platforms. However, to optimize our resources and to utilize extensive third-party experience in small molecule manufacturing, we intend to work with CDMOs for our small molecule programs.

Although some of our employees have experience in the manufacturing of biopharmaceutical products from prior employment at other companies, we as a company have limited experience in manufacturing. Furthermore, maintaining manufacturing operations requires significant resources, management time and capital expenditures, particularly in areas relating to operations, quality, regulatory, facilities and information technology.

We cannot guarantee that our facility will be able to produce sufficient quantities of product candidates needed to support our preclinical studies and ongoing and planned clinical trials. We may face delays or increased costs in the production of clinical supply at our manufacturing facility. We also may encounter problems hiring and retaining the experienced scientific, quality control and manufacturing personnel needed to operate our manufacturing facility and processes. If we experience unanticipated employee shortage or turnover in any of these areas, we may not be able to effectively manage our ongoing manufacturing operations and we may not achieve the operating efficiencies that we anticipate from developing these capabilities, which may negatively affect our product development timelines or result in difficulties in maintaining compliance with applicable regulatory requirements.

Any delays in the ongoing development of our internal manufacturing capabilities may disrupt or delay the supply of our product candidates if we have not maintained a sufficient back-up supply of such product candidates. Moreover, changing manufacturing facilities during the clinical development process may also require that we conduct additional studies, make notifications to regulatory authorities, make additional filings to regulatory authorities, and obtain regulatory authority approval for the new facilities, which may be delayed or which we may never receive.

Any failure or delay in the development of our manufacturing operations or capabilities may hamper our ability to further process improvement, maintain quality control, limit our reliance on contract manufacturers and protect our trade secrets and other intellectual property, and could adversely impact the development or commercialization of our product candidates.

***Our manufacturing facilities will be subject to significant government regulations and approvals, which are often costly and could result in adverse consequences to our business if we fail to comply with the regulations or maintain the approvals.***

We will need to comply with the FDA's and applicable foreign regulatory authorities' cGMP requirements for the production of product candidates for clinical trials and, if approved, commercial supply. We may encounter difficulties in achieving QC and QA. We will be subject to inspections by the FDA and comparable agencies in other jurisdictions to confirm compliance with applicable

40

---

regulatory requirements. These requirements include the qualification and validation of our manufacturing equipment and processes. Any failure to follow cGMP or other regulatory requirements or delay, interruption or other issues that arise in the manufacture of our product candidates as a result of a failure of our facilities or the facilities or operations of our third-party suppliers to comply with regulatory requirements or pass any regulatory authority inspection could significantly impair our ability to develop and commercialize our product candidates, including leading to significant delays in the availability of our product candidates for our clinical trials or the termination or hold on a clinical trial, or the delay or prevention of a filing or approval of marketing applications for our product candidates. Significant noncompliance non-compliance could also result in the imposition of sanctions, including fines, injunctions, civil penalties, failure of regulatory authorities to grant marketing approvals for our product candidates, delays, suspension or withdrawal of approvals, license revocation, seizures or recalls of products, operating restrictions and criminal prosecutions, any of which could damage our reputation. If we are not able to maintain regulatory compliance, we may not be permitted to market our product candidates and/or may be subject to product recalls, seizures, injunctions, or criminal prosecution.

***We may not be able to successfully manufacture our product candidates in sufficient quality and quantity, which would delay or prevent us from developing our product candidates and commercializing resulting approved products, if any.***

To date, our product candidates have been manufactured in quantities adequate for preclinical studies and our Phase 1 clinical trials for TN-301 and TN-201, our lead product candidates. In order to conduct clinical trials for a product candidate and for commercialization of the resulting product if that product candidate is approved for sale, we will need to manufacture product candidates in larger quantities. We may not be able to successfully repeat or increase the manufacturing capacity for any of our product candidates in a timely or cost-effective manner or at all. Significant changes or scale-up of manufacturing may require additional validation studies, which are costly and which regulatory authorities must review and approve. In addition, quality issues may arise during those changes or scale-up activities.

In addition, as product candidates progress through preclinical studies and clinical trials to marketing approval and commercialization, it is common that various aspects of the development program, such as manufacturing methods and formulation, are altered along the way in an effort to optimize yield and manufacturing batch size, minimize costs and achieve consistent quality and results. Such changes carry the risk that they will not achieve these intended objectives. Any of these changes could cause our product candidates to perform differently and affect the results of planned clinical trials or other future clinical trials conducted with the altered materials. This could delay completion of clinical trials, require the conduct of bridging clinical trials or the repetition of one or more clinical trials, increase clinical trial costs, delay approval of

our product candidates and jeopardize our ability to commercialize our product candidates, if approved, and generate revenue.

If we are unable to successfully manufacture any of our product candidates in sufficient quality and quantity, the development of that product candidate and regulatory approval or commercial launch for any resulting products may be delayed or there may be a shortage in supply, which could significantly harm our business.

***Our product candidates may not achieve adequate market acceptance among physicians, patients, healthcare payors and others in the medical community necessary for commercial success.***

Even if our product candidates receive regulatory approval, they may not gain adequate market acceptance among physicians, patients, third-party payors and others in the medical community. If we are unable to demonstrate sufficient safety to permit a broader use of our product candidates, we may not generate significant product revenue and we may not become profitable. The degree of market acceptance of any of our approved product candidates will depend on a number of factors, including:

- the efficacy and safety profile as demonstrated in clinical trials compared to alternative treatments;
- perceived safety and efficacy profile and ease of use for pediatric patient population if approved for a pediatric indication;
- the timing of market introduction of the product candidate as well as competitive products;
- the clinical indications for which a product candidate is approved;
- restrictions on the use of product candidates in the labeling approved by regulatory authorities, such as boxed warnings or contraindications in labeling, or a risk evaluation and mitigation strategy, if any, which may not be required of alternative treatments and competitor products;
- physicians, hospitals, treatment centers and patients considering our product candidates as a safe, pure and effective treatment;
- the perceived prevalence and severity of any side effects for our product candidates compared to the prevalence and severity of any side effects for conventional products and other gene therapies;
- the potential and perceived advantages of our product candidates over alternative treatments;
- the cost of treatment in relation to alternative treatments;

41

---

- relative convenience and ease of administration;
- the willingness of the target patient population or their caregivers to try new therapies and of physicians to prescribe these therapies;
- the size of the relevant pediatric patient population if approved for a pediatric indication, including challenges associated with diagnosing or identifying pediatric populations with the applicable target disease or condition;
- the availability of coverage and adequate reimbursement by third-party payors, including government authorities;

- patients' willingness to pay for these therapies in the absence of such coverage and adequate reimbursement;
- the effectiveness of sales and marketing efforts;
- support from KOLs and patient advocacy groups;
- unfavorable publicity relating to our product candidates; and
- the approval of other new therapies for the same indications.

If any of our product candidates are approved but do not achieve an adequate level of acceptance by physicians, hospitals, healthcare payors and patients, we may not generate or derive sufficient revenue from that product candidate and our financial results could be negatively impacted.

***Adverse public perception or regulatory scrutiny of gene therapy technology or precision medicine for the treatment of heart diseases may negatively impact the developmental progress or commercial success of product candidates that we develop.***

The developmental and commercial success of product candidates that we develop will depend in part on public acceptance of the use of gene therapy technology, including the use of AAVs, and precision medicine for the prevention or treatment of human diseases. Adverse public perception of gene therapies or precision medicine may negatively impact our ability to raise capital or enter into strategic agreements for the development of product candidates.

Gene therapy and precision medicine remain novel technologies. The commercial success of our products, if successfully developed and approved, may be adversely affected by claims that gene therapy or precision medicine is unsafe, unethical or immoral. This may lead to unfavorable public perception and the inability of any of our product candidates to gain the acceptance of the public or the medical community. Unfavorable public perceptions may also adversely impact our ability to enroll clinical trials for our product candidates. Moreover, success in commercializing any product candidates that receive regulatory approval will depend upon physicians prescribing, and their patients being willing to receive, treatments that involve the use of such product candidates in lieu of, or in addition to, existing treatments with which they are already familiar and for which greater clinical data may be available.

Publicity of any adverse events in, or unfavorable results of, preclinical studies or clinical trials for our product candidates, or with respect to the studies or trials of our competitors or of academic researchers utilizing similar technologies, even if not ultimately attributable to our technology or product candidates, could negatively influence public opinion. Negative public perception about the use of AAV technology in human therapeutics or precision medicine, whether related to our technology or our competitor's technology, could result in increased governmental regulation, delays in the development and commercialization of product candidates or decreased demand for the resulting products, any of which may seriously harm our business.

***The limited number of patients who have the diseases for which our product candidates are being developed may make it more difficult for us to enroll or complete clinical trials or may result in findings in our clinical trials that do not reach levels of statistical significance sufficient for marketing approval. Even if such product candidates achieve marketing approval, because such target patient populations are small and the addressable patient population may***

**be even smaller, we must be able to successfully identify patients and capture a significant market share to achieve profitability and growth.**

Some of the indications for which we plan to evaluate our product candidates in clinical trials are rare genetic diseases. Accordingly, there are limited patient pools from which to draw for clinical trials. In addition to the rarity of these diseases, the eligibility criteria of our planned clinical trials will further limit the pool of available study participants as we will require that patients have specific characteristics that we can measure to assure their disease is either severe enough or not too advanced to include them in a trial. Moreover, the effort to identify patients with diseases we seek to treat is in early stages, and we cannot accurately predict the number of patients for whom treatment might be possible. We may not be able to initiate or continue clinical trials on a timely basis or at all for our product candidates if we are unable to locate and enroll a sufficient number of eligible patients to participate in the trials as required by applicable regulations or as needed to provide appropriate statistical power for a given trial. Similarly, because some of the conditions we intend to treat are rare in nature, we plan to design and conduct clinical trials utilizing a small number of patients in order to evaluate the safety and therapeutic activity of our product candidates. Conducting trials in smaller subject populations increases the risk that any safety or efficacy issues observed in only a few patients could prevent such trials from reaching statistical

42

---

significance or otherwise meeting their specified endpoints, which could require us to conduct additional clinical trials, or delay or prevent our product candidates from receiving regulatory approval, which would seriously harm our business.

Additionally, the potentially addressable patient population for our product candidates may be limited or may not be amenable to treatment with our product candidates, and new patients may become increasingly difficult to identify or gain access to, which would adversely affect our results of operations and our business. Further, even if we obtain significant market share for our product candidates, because the potential target populations are very small, we may never achieve profitability despite obtaining such significant market share.

***Any product candidates we develop may become subject to unfavorable third-party coverage and reimbursement practices, as well as pricing regulations.***

The availability and extent of coverage and adequate reimbursement by third-party payors including government health administration authorities, private health coverage insurers, managed care organizations and other third-party payors is essential for most patients to be able to afford expensive treatments. The indications we are initially pursuing for our gene therapy product candidates have small patient populations. For product candidates that are designed to treat smaller patient populations to be commercially viable, the reimbursement for such product candidates must be higher, on a relative basis, to account for the lack of volume. Accordingly, we will need to implement a coverage and reimbursement strategy for any approved product candidate that accounts for the smaller potential market size.

Sales of any of our product candidates that receive marketing approval will depend substantially, both in the U.S. and internationally, on the extent to which the costs of such product candidates will be covered and reimbursed by third-party

payors. If reimbursement is not available, or is available only to limited levels, we may not be able to successfully commercialize our product candidates. Even if coverage is provided, the approved reimbursement amount may not be high enough to allow us to establish or maintain pricing sufficient to realize an adequate return on our investment. Coverage and reimbursement may impact the demand for, or the price of, any product candidate for which we obtain marketing approval. If coverage and reimbursement are not available or reimbursement is available only to limited levels, we may not successfully commercialize any product candidate for which we obtain marketing approval.

There is significant uncertainty related to third-party payor coverage and reimbursement of newly approved products. In the U.S., for example, principal decisions about reimbursement for new products are typically made by the Centers for Medicare & Medicaid Services (CMS), an agency within the U.S. Department of Health and Human Services (HHS). CMS decides whether and to what extent a new product will be covered and reimbursed under Medicare, and private third-party payors often follow CMS's decisions regarding coverage and reimbursement to a substantial degree. However, one third-party payor's determination to provide coverage for a product candidate does not assure that other payors will also provide coverage for the product candidate or at the same level of reimbursement. As a result, the coverage determination process is often time-consuming and costly. This process will require us to provide scientific and clinical support for the use of our products to each third-party payor separately, with no assurance that coverage and adequate reimbursement will be applied consistently or obtained in the first instance.

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. Further, such payors are increasingly challenging the price, examining the medical necessity and reviewing the cost effectiveness of medical product candidates. There may be especially significant delays in obtaining coverage and reimbursement for newly approved drugs. Third-party payors may limit coverage to specific product candidates on an approved list, known as a formulary, which might not include all FDA-approved drugs for a particular indication. We may need to conduct expensive pharmaco-economic studies to demonstrate the medical necessity and cost effectiveness of our products. Nonetheless, our product candidates may not be considered medically necessary or cost effective. We cannot be sure that coverage and reimbursement will be available for any product that we commercialize and, if reimbursement is available, what the level of reimbursement will be.

Outside the U.S., the commercialization of therapeutics is generally subject to extensive governmental price controls and other market regulations, and we believe the increasing emphasis on cost containment initiatives in Europe, Canada and other countries has and will continue to put pressure on the pricing and usage of therapeutics such as our product candidates. In many countries, particularly the countries of the EU, medical product prices are subject to varying price control mechanisms as part of national health systems. In these countries, pricing negotiations with governmental authorities can take considerable time after a product receives marketing approval. To obtain reimbursement or pricing approval in some countries, we may be required to conduct a clinical trial that compares the cost-effectiveness of our product candidate to other available therapies. In general, product prices under such systems are substantially lower than in the U.S. Other countries allow companies to fix their own prices for products but monitor and control company profits. Additional foreign price controls or other changes in pricing regulation could restrict the amount that we are able to charge for our product candidates. Accordingly, in markets outside the U.S., the reimbursement for our products may be reduced compared with the U.S. and may be insufficient to generate commercially reasonable revenue and profits.

If we are unable to establish or sustain coverage and adequate reimbursement for any product candidates from third-party payors, the adoption of those products and sales revenue will be adversely affected, which, in turn, could adversely affect the ability to market or sell those product candidates, if approved. Coverage policies and third-party payor reimbursement rates may change at any time. Even if favorable coverage and reimbursement status is attained for one or more products for which we receive regulatory approval, less favorable coverage policies and reimbursement rates may be implemented in the future.

***Our business entails a significant risk of product liability and if we are unable to obtain sufficient insurance coverage, such inability could have an adverse effect on our business and financial condition. If product liability lawsuits are brought against us, we may incur substantial liabilities and may be required to limit commercialization of our products.***

Our business exposes us to significant product liability risks inherent in the development, testing, manufacturing and marketing of therapeutic treatments. We have limited product liability insurance. Any insurance we have or may obtain may not provide sufficient coverage against potential liabilities. Furthermore, clinical trial and product liability insurance is becoming increasingly expensive. As a result, we may be unable to obtain sufficient insurance at a reasonable cost to protect us against losses caused by product liability claims that could have an adverse effect on our business and financial condition. Also, our insurance policies may have various exclusions, and we may be subject to a product liability claim for which we have no coverage. We may have to pay any amounts awarded by a court or negotiated in a settlement that exceed our coverage limitations or that are not covered by our insurance, and we may not have, or be able to obtain, sufficient capital to pay such amounts. Even if our agreements with any future collaborators entitle us to indemnification against losses, such indemnification may not be available or adequate should any claim arise.

We may be sued if any of our product candidates cause or are perceived to cause injury or are found to be otherwise unsuitable during clinical testing, manufacturing, marketing, or sale post-approval. Any such product liability claims may include allegations of defects in manufacturing, defects in design, a failure to warn of dangers inherent in the product, negligence, strict liability, or a breach of warranties. Claims could also be asserted under state consumer protection laws. If we cannot successfully defend ourselves against product liability claims, we may incur substantial liabilities or be required to limit testing and commercialization of our products. Even a successful defense would require significant financial and management resources.

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

- delays in the development of our product candidates;
- FDA, EMA or other regulatory authority investigation of the safety and effectiveness of our products, our manufacturing processes and facilities or our marketing programs;
- decreased or interrupted demand for our products;
- injury to our reputation;

- withdrawal of clinical trial participants and inability to continue clinical trials;
- costs to defend the related litigation;
- a diversion of management's time and our resources;
- substantial monetary awards to trial participants or patients;
- product recalls, withdrawals or labeling, marketing, or promotional restrictions;
- loss of revenue;
- exhaustion of any available insurance and our capital resources; and
- the inability to commercialize any products.

## **Risks Related to Regulatory Approval and Other Legal Compliance Matters**

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

Our product candidates are and will continue to be subject to extensive governmental regulations relating to, among other things, research, testing, development, manufacturing, safety, efficacy, approval, recordkeeping, reporting, labeling, storage, packaging, advertising and promotion, pricing, marketing and distribution of drugs. Rigorous preclinical testing and clinical trials and an extensive regulatory approval process must be successfully completed in the U.S. and in many foreign jurisdictions before a new drug can be approved for marketing. Obtaining approval by the FDA, EMA and other comparable foreign regulatory authorities is

44

---

costly, unpredictable, typically takes many years following the commencement of clinical trials and depends upon numerous factors, including the type, complexity and novelty of the product candidates involved. In addition, approval policies, regulations or the type and amount of clinical data necessary to gain approval may change during the course of a product candidate's clinical development and may vary among jurisdictions, which may cause delays in the approval or the decision not to approve an application. Regulatory authorities have substantial discretion in the approval process and may refuse to accept any application or may decide that our data are insufficient for approval and require additional preclinical, clinical or other data.

We cannot provide assurance that any of the product candidates we develop will progress through required clinical testing and obtain the regulatory approvals necessary for us to begin selling them. Applications for our product candidates could be delayed or fail to receive regulatory approval for many reasons, including the following:

- the FDA, EMA or other comparable foreign regulatory authorities may disagree with the design, implementation or results of our clinical trials;
- the FDA, EMA or other comparable foreign regulatory authorities may refuse to accept an application or decide not

- to accept data from our clinical trials conducted in locations outside of their jurisdiction;
- the FDA, EMA or other comparable foreign regulatory authorities may determine that our product candidates are safe and effective, are only moderately effective or have undesirable or unintended side effects, toxicities or other characteristics that preclude our obtaining marketing approval or prevent or limit commercial use;
- the population studied in the clinical trial may not be sufficiently broad or representative to assure efficacy and safety in the full population for which we seek approval;
- the FDA, EMA or other comparable foreign regulatory authorities may disagree with our interpretation of data from preclinical studies or clinical trials;
- the FDA, EMA or other comparable foreign regulatory authorities may require that we conduct additional preclinical studies or clinical trials;
- we may be unable to demonstrate to the FDA, EMA or other comparable foreign regulatory authorities that our product candidate's risk-benefit ratio for its proposed indication is acceptable;
- the FDA, EMA or other comparable foreign regulatory authorities may fail to approve the manufacturing processes, test procedures and specifications or facilities of third-party manufacturers with which we contract for clinical and commercial supplies; and
- the approval policies or regulations of the FDA, EMA or other comparable foreign regulatory authorities may significantly change in a manner rendering our clinical data insufficient for approval.

This lengthy approval process, as well as the unpredictability of the results of clinical trials, may result in our failing to obtain regulatory approval to market any of our product candidates, which would significantly harm our business, results of operations and prospects. Any delay or failure in seeking or obtaining required approvals would have a material and adverse effect on our ability to generate revenue from any particular product candidates we are developing and for which we are seeking approval.

***Obtaining and maintaining regulatory approval of our product candidates in one jurisdiction does not mean that we will be successful in obtaining regulatory approval of our product candidates in other jurisdictions.***

Obtaining and maintaining regulatory approval of our product candidates in one jurisdiction does not guarantee that we will be able to obtain or maintain regulatory approval in any other jurisdiction. For example, even if the FDA or EMA grants marketing approval of a product candidate, comparable regulatory authorities in foreign jurisdictions must also approve the manufacturing, marketing and promotion and reimbursement of the product candidate in those countries. However, a failure or delay in obtaining regulatory approval in one jurisdiction may have a negative effect on the regulatory approval process in others. Approval procedures vary among jurisdictions and can involve requirements and administrative review periods different from those in the U.S., including additional preclinical studies or clinical trials as clinical trials conducted in one jurisdiction may not be accepted by regulatory authorities in other jurisdictions. In many jurisdictions outside the U.S., a product candidate must be approved for reimbursement before it can be approved for sale in that jurisdiction. In some cases, the price that we intend to charge for our products is also subject to approval.

Obtaining foreign regulatory approvals and establishing and maintaining compliance with foreign regulatory requirements could result in significant delays, difficulties and costs for us and could delay or prevent the introduction of our products in certain countries. If we or any future collaborator fail to comply with the regulatory requirements in

international markets or fail to receive applicable marketing approvals, our target market will be reduced and our ability to realize the full market potential of our potential product candidates will be harmed.

***Even if our product candidates receive regulatory approval, such approval may be for a narrower indication than we seek, and our product candidates will be subject to significant post-marketing regulatory requirements and oversight.***

Even if we eventually complete clinical testing and receive approval for our product candidates, the FDA, EMA and other comparable foreign regulatory authorities may approve our product candidates for a more limited indication or a narrower patient population than we originally requested or may impose other prescribing limitations or warnings that limit the product's commercial potential. Furthermore, any regulatory approval to market a drug may be subject to significant limitations on the approved uses or indications for which we may market, promote and advertise the drug or the labeling or other restrictions. The regulatory authorities may require precautions or contra-indications with respect to conditions of use or they may grant approval subject to the performance of costly post-marketing clinical trials. In addition, the FDA has the authority to require a Risk Evaluation and Mitigation Strategy (REMS) plan as part of approving an NDA, or after approval, which may impose further requirements or restrictions on the distribution or use of an approved drug. These requirements or restrictions might include limiting prescribing to certain physicians or medical centers that have undergone specialized training, limiting treatment to patients who meet certain safe-use criteria and requiring treated patients to enroll in a registry. Any of the foregoing scenarios could materially harm the commercial prospects for our product candidates and materially harm our business, financial condition, results of operations and prospects, and may significantly limit the size of the market for the drug and affect reimbursement by third-party payors.

In addition, if the FDA or foreign regulatory authorities approve our product candidates, the manufacturing processes, labeling, packaging, distribution, adverse event reporting, storage, advertising, promotion, import, export and recordkeeping for our product candidates will be subject to extensive and ongoing regulatory requirements. These requirements include submissions of safety and other post-marketing information and reports, registration, as well as ongoing compliance with cGMP and GCP for any clinical trials that we conduct post-approval. Manufacturers of drug products and their facilities are also subject to continual review and periodic, unannounced inspections by the FDA and other regulatory authorities for compliance with cGMP regulations and standards. If we or a regulatory agency discover previously unknown problems with a product, such as adverse events of unanticipated severity or frequency, or problems with the facilities where the product is manufactured, a regulatory agency may impose restrictions on that product, the manufacturing facility or us, including requiring recall or withdrawal of the product from the market or suspension of manufacturing. In addition, failure to comply with FDA, EMA and other comparable foreign regulatory requirements may subject our company to administrative or judicially imposed sanctions, including:

- delays in or the rejection of product approvals;
- restrictions on our ability to conduct clinical trials, including full or partial clinical holds on ongoing or planned trials;
- restrictions on the products, manufacturers or manufacturing process;

- warning or untitled letters;
- civil and criminal penalties;
- injunctions;
- suspension or withdrawal of regulatory approvals;
- product seizures, detentions or import bans;
- voluntary or mandatory product recalls and publicity requirements;
- total or partial suspension of production; and
- imposition of restrictions on operations, including costly new manufacturing requirements.

The occurrence of any event or penalty described above may inhibit our ability to commercialize our product candidates, if approved, and generate revenue. Furthermore, non-compliance by us or any future collaborator with regulatory requirements, including safety monitoring and with requirements related to the development of products for the pediatric population can also result in significant financial penalties.

***We may not be able to obtain orphan drug designation or obtain or maintain orphan drug exclusivity for our product candidates and, even if we do, that exclusivity may not prevent the FDA, EMA or other comparable foreign regulatory authorities, from approving competing products.***

Regulatory authorities in some jurisdictions, including the U.S. and the EU, may designate drugs for relatively small patient populations as orphan drugs. Under the Orphan Drug Act, the FDA may designate a product as an orphan drug if it is a drug intended to treat a rare disease or condition, which is generally defined as a patient population of fewer than 200,000 individuals annually in the U.S., or a patient population greater than 200,000 in the U.S. where there is no reasonable expectation that the cost of developing the drug will be recovered from sales in the U.S. Similarly, in the EU, the EC, upon the recommendation of the EMA's Committee for

46

---

Orphan Medicinal Products, grants orphan drug designation to promote the development of drugs that are intended for the diagnosis, prevention or treatment of life-threatening or chronically debilitating conditions affecting not more than five in 10,000 persons in Europe and for which no satisfactory method of diagnosis, prevention, or treatment has been authorized (or the product would be a significant benefit to those affected). Additionally, designation is granted for drugs intended for the diagnosis, prevention, or treatment of a life-threatening, seriously debilitating or serious and chronic condition and when, without incentives, it is unlikely that sales of the drug in Europe would be sufficient to justify the necessary investment in developing the drug. In the EU, orphan drug designation entitles a party to financial incentives such as reduction of fees or fee waivers. However, there can be no assurances that we will be able to obtain orphan designations for our product candidates.

In the U.S., orphan drug designation entitles a party to financial incentives such as opportunities for grant funding towards clinical trial costs, tax advantages and user-fee waivers. In addition, if a product that has orphan drug designation

subsequently receives the first FDA approval for the disease for which it has such designation, the product is entitled to orphan drug exclusivity. Orphan drug exclusivity in the U.S. provides that the FDA may not approve any other applications, including a full NDA, to market the same drug for the same indication for seven years, except in limited circumstances. The applicable exclusivity period is ten years in Europe. The European exclusivity period can be reduced to six years if a drug no longer meets the criteria for orphan drug designation or if the drug is sufficiently profitable so that market exclusivity is no longer justified.

Our lead product candidates from our gene therapy platform, TN-201 and TN-401, have each been granted orphan drug designation by the FDA (TN-201 and TN-401) and the EC, (TN-201), and we may seek orphan drug designation for other product candidates in the U.S., Europe and other jurisdictions. Even if we obtain orphan drug designation for a product candidate, we may not be able to obtain or maintain orphan drug exclusivity for that product candidate. We may not be the first to obtain marketing approval of any product candidate for which we have obtained orphan drug designation for the orphan-designated indication due to the uncertainties associated with developing pharmaceutical products. In addition, exclusive marketing rights in the U.S. may be limited if we seek approval for an indication broader than the orphan-designated indication or may be lost if the FDA later determines that the request for designation was materially defective or if we are unable to ensure that we will be able to manufacture sufficient quantities of the product to meet the needs of patients with the rare disease or condition. Further, even if we obtain orphan drug exclusivity for a product, that exclusivity may not effectively protect the product from competition because different drugs with different active moieties may be approved for the same condition. Even after an orphan drug is approved, the FDA can subsequently approve the same drug with the same active moiety for the same condition if the FDA concludes that the later drug is clinically superior in that it is shown to be safer, more effective or makes a major contribution to patient care or the manufacturer of the product with orphan exclusivity is unable to maintain sufficient product quantity. Orphan drug designation neither shortens the development time or regulatory review time of a drug nor gives the product candidate any advantage in the regulatory review or approval process or entitles the product candidate to priority review.

In *Catalyst Pharms., Inc. v. Becerra*, 14 F.4th 1299 (11th Cir. 2021), the court disagreed with the FDA's longstanding position that the orphan drug exclusivity only applies to the approved use or indication within an eligible disease. This decision created uncertainty in the application of the orphan drug exclusivity. On January 24, 2023, the FDA published a notice in the Federal Register to clarify that while the agency complies with the court's order in *Catalyst*, the FDA intends to continue to apply its longstanding interpretation of the regulations to matters outside of the scope of the *Catalyst* order – that is, the agency will continue tying the scope of orphan-drug exclusivity to the uses or indications for which a drug is approved, which permits other sponsors to obtain approval of a drug for new uses or indications within the same orphan designated disease or condition that have not yet been approved. It is unclear how future litigation, legislation, agency decisions, and administrative actions will impact the scope of the orphan drug exclusivity.

### ***We may face difficulties from changes to current FDA and healthcare regulations and future legislation.***

Existing regulatory policies may change, and additional government regulations may be enacted that could prevent, limit or delay regulatory approval of our product candidates. We cannot predict the likelihood, nature or extent of government regulation that may arise from future legislation or administrative action, either in the U.S. or abroad. If we are slow or unable to adapt to changes in existing requirements or the adoption of new requirements or policies, or if we are

not able to maintain regulatory compliance, we may lose any marketing approval that we may have obtained, and we may not achieve or sustain profitability.

We also cannot predict the likelihood, nature or extent of government regulation that may arise from future legislation or administrative or executive action, either in the U.S. or abroad. For example, certain policies of the current U.S. administration may impact our business and industry, which could impose significant burdens on, or otherwise materially delay, the FDA's ability to engage in routine regulatory and oversight activities such as implementing statutes through rulemaking, issuance of guidance, and review and approval of marketing applications. It is difficult to predict how current and future legislation, executive actions, and litigation, including the executive orders referenced below, will be implemented, and the extent to which they will impact our business, our clinical development, and the FDA's and other agencies' ability to exercise their regulatory authority, including FDA's pre-approval inspection and timely review of any regulatory filings or applications we submit to the FDA. If these executive actions

47

---

impose constraints on FDA's ability to engage in oversight and implementation activities in the normal course or constraints on our business operations, including operations of our contractors, our business may be negatively impacted.

For example, in March 2010, the Patient Protection and Affordable Care Act of 2010, as amended by the Health Care and Education Reconciliation Act of 2010 (collectively, the ACA), was passed, which substantially changed the way healthcare is financed by both the government and private insurers, and continues to significantly impact the U.S. pharmaceutical industry. Since its enactment, there have been judicial and Congressional challenges to certain aspects of the ACA, some of which have been successful, that create considerable uncertainty for our business. Although the U.S. Supreme Court held in 2021 that Texas and other challengers had no legal standing to challenge the ACA, we cannot predict how future challenges will impact our business, or what other healthcare measures and regulations will ultimately be implemented at the federal or state level or the effect of any future legislation or regulation may have on our business.

In addition, other legislative changes have been proposed and adopted in the U.S. since the ACA was enacted, including aggregate reductions to Medicare payments to providers, effective April 1, 2013, which will remain in effect through 2031 and increase the statute of limitations period for the government to recover overpayments to providers from three to five years. These and future laws may result in additional reductions in Medicare and other healthcare funding, which could have a material adverse effect on customers for our drugs, if approved, and accordingly, our financial operations.

Moreover, there has been heightened governmental scrutiny recently over the manner in which drug manufacturers set prices for their marketed products, which has resulted in several 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 drug products.

Under the American Rescue Plan Act of 2021, effective January 1, 2024, the statutory cap on Medicaid Drug Rebate Program rebates that manufacturers pay to state Medicaid programs will be eliminated. Elimination of this cap may require pharmaceutical manufacturers to pay more in rebates than it receives on the sale of products, which could have a material impact on our business. In July 2021, the Biden administration released an executive order, "Promoting Competition in the American Economy," with multiple provisions aimed at increasing competition for prescription drugs. In response to this executive order, the HHS released a Comprehensive Plan for Addressing High Drug Prices that outlines principles for drug pricing reform and potential legislative policies that Congress could pursue to advance these principles. In August 2022, Congress passed the Inflation Reduction Act of 2022 (the IRA), which includes prescription drug provisions that have significant implications for the pharmaceutical industry and Medicare beneficiaries, including allowing the federal government to negotiate a maximum fair price for certain high-priced single source Medicare drugs, imposing penalties and excise tax for manufacturers that fail to comply with the drug price negotiation requirements, requiring inflation rebates for all Medicare Part B and Part D drugs, with limited exceptions, if their drug prices increase faster than inflation, and redesigning Medicare Part D to reduce out-of-pocket prescription drug costs for beneficiaries, among other changes. The impact of these legislative, executive, and administrative actions and any future healthcare measures and agency rules implemented by the government on us and the pharmaceutical industry as a whole is unclear. The implementation of cost containment measures, including the prescription drug provisions under the IRA, as well as other healthcare reforms may prevent us from being able to generate revenue, attain profitability, or commercialize our product candidates if approved.

At the state level, legislatures have increasingly passed legislation and implemented regulations designed to control pharmaceutical product pricing, including price or patient reimbursement constraints, discounts, restrictions on certain product access and marketing cost disclosure and transparency measures, and, in some cases, designed to encourage importation from other countries and bulk purchasing. A number of states are considering or have recently enacted state drug price transparency and reporting laws that could substantially increase our compliance burdens and expose us to greater liability under such state laws once we begin commercialization after obtaining regulatory approval for any of our products. We are unable to predict the future course of federal or state healthcare legislation in the U.S. directed at broadening the availability of healthcare and containing or lowering the cost of healthcare. These and any further changes in the law or regulatory framework that reduce our revenue or increase our costs could also have a material and adverse effect on our business, financial condition and results of operations.

We expect that the ACA, as well as other healthcare reform measures that may be adopted in the future, may result in more rigorous coverage criteria and in additional downward pressure on the price that we receive for any approved product. Any reduction in reimbursement from Medicare 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 revenue, attain profitability or commercialize our product candidates.

Legislative and regulatory proposals have been made to expand post-approval requirements and restrict sales and promotional activities for biotechnology products. We cannot be sure whether additional legislative changes will be enacted, or whether FDA regulations, guidance or interpretations will be changed, or what the impact of such changes on the marketing approvals of our product candidates, if any, may be. In addition, increased scrutiny by Congress of the FDA's

approval process may significantly delay or prevent marketing approval, as well as subject us to more stringent product labeling and post-marketing testing and other requirements.

***We are subject to stringent laws, rules, regulations, policies, industry standards and contractual obligations regarding data privacy and security and may be subject to additional related laws and regulations in jurisdictions into which we expand. Many of these laws and regulations are subject to change and reinterpretation and could result in claims, changes to our business practices, monetary penalties, increased cost of operations or other harm to our business.***

The regulatory framework for privacy and personal information security issues worldwide is rapidly evolving and is likely to remain uncertain for the foreseeable future. The U.S. federal and various state, local and foreign government bodies and agencies have adopted or are considering adopting laws, rules, regulations and standards limiting, or laws, rules, regulations and standards regarding, the collection, distribution, use, disclosure, storage, security and other processing of personal information.

Outside of the U.S., relevant legal requirements continue to evolve. For example, the collection and use of health data and other personal data including personal data collected in clinical trials is governed in the EU by the General Data Protection Regulation (GDPR), which imposes substantial obligations upon companies and new rights for individuals, by certain EU member state-level legislation. The GDPR also forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018 and as amended by the Data Protection, Privacy and Electronic Communications (Amendments etc.) (EU Exit) Regulations 2019 (SI 2019/419), known as UK GDPR. Failure to comply with the GDPR may result in fines up to €20,000,000 or 4% of the total worldwide annual turnover of the preceding financial year, whichever is higher, and other administrative penalties. The GDPR has increased our responsibility and liability in relation to personal data that we may process, and we may be required to implement additional measures in an effort to comply with the GDPR and with other laws, rules, regulations and standards in the European Economic Area (EEA), United Kingdom (UK) and Switzerland relating to privacy and data protection. This may be onerous and if our efforts to comply with GDPR or other applicable laws, rules, regulations and standards are not successful, or are perceived to be unsuccessful, it could adversely affect our business. Further, restrictions on the transfer of personal data from the EEA, UK and Switzerland to the U.S., all of which could restrict our activities in those jurisdictions, limit our ability to provide our products and services in those jurisdictions, require us to modify our policies and practices, and to engage in additional contractual negotiations, or increase our costs and obligations and impose limitations upon our ability to efficiently transfer personal data from the EEA and Switzerland to the U.S. In Canada, the Personal Information Protection and Electronic Documents Act (PIPEDA) and similar provincial laws impose obligations on companies with respect to processing personal information, including health-related information, regarding Canadian data subjects and provides individuals certain rights with respect to such information, including the right to access and challenge the accuracy of their personal information held by an organization. Failure to comply with PIPEDA, where applicable, could result in fines and penalties.

In the U.S., a variety of data privacy, protection and security laws, rules, regulations and standards potentially may apply to our activities, such as state data breach notification laws, state personal data privacy laws (for example, the California Consumer Privacy Act of 2018, as amended by the California Privacy Rights Act effective January 1, 2023 (CCPA)), state health information privacy laws, and federal and state consumer protection laws. The CCPA requires covered businesses that process personal information of California residents to disclose their data collection, use, sharing and retention practices, provides California residents with data privacy rights (including the ability to opt out of certain disclosures of personal information including for certain advertising purposes), imposes operational requirements for covered businesses, provides for significant civil penalties for violations as well as a private right of action for certain data breaches and statutory damages (that is expected to increase data breach class action litigation and result in significant exposure to costly legal judgments and settlements). Although there are limited exemptions for clinical trial data under the CCPA and certain other state laws, the CCPA and other new and evolving state laws could impact our business activities, depending on their interpretation. Numerous other state legislatures have introduced, and in several cases enacted, their own comprehensive data privacy and security laws, with potentially greater penalties and more rigorous compliance requirements, and laws in all 50 states require businesses to provide notice to customers whose personal data has been disclosed as a result of a data breach. Finally, federal, state and foreign laws, rules, regulations and standards may apply generally to the privacy and security of information we maintain, and may differ from each other significantly, thus complicating compliance efforts and potentially requiring us to undertake additional measures to comply with them.

With the GDPR, PIPEDA, CCPA, and other laws, regulations and other obligations relating to privacy and data protection imposing new and relatively burdensome obligations, and with substantial uncertainty over the interpretation and application of these and other obligations, we may face challenges in addressing their requirements and making necessary changes to our policies and practices and may incur significant costs and expenses in an effort to do so.

We make public statements about our use, collection, disclosure and other processing of personal data through our privacy policies, information provided on our website and press statements. Although we endeavor to comply with our public statements and documentation, we may at times fail to do so or be alleged to have failed to do so. Any failure or perceived failure by us or our vendors or service providers to comply with our applicable policies or notices relating to privacy or data protection, our contractual or other obligations to third parties, or any of our other legal obligations, laws, rules, regulations and standards relating to privacy or data

protection, may result in governmental investigations or enforcement actions, litigation, claims and other proceedings, harm our reputation, and could result in significant liability.

***Inadequate funding for the FDA, the SEC and other government agencies could hinder their ability to hire and retain key leadership and other personnel, prevent new products and services from being developed or commercialized in a timely manner or otherwise prevent those agencies from performing normal business functions on which the operation of our business may rely, which could negatively impact our business.***

The ability of the FDA to review and approve new products can be affected by a variety of factors, including government budget and funding levels, ability to hire and retain key personnel and accept the payment of user fees, and statutory, regulatory, and policy changes. Average review times at the agency have fluctuated in recent years as a result. In addition, government funding of the U.S. Securities and Exchange Commission (SEC) and other government agencies on which our operations may rely, including those that fund research and development activities is subject to the political process, which is inherently fluid and unpredictable.

Disruptions at the FDA, including delays or disruptions due to staffing shortages, and other agencies may also slow the time necessary for new drugs to be reviewed and/or approved by necessary government agencies, which would adversely affect our business. For example, in 2018 and 2019, the U.S. government shut down several times and certain regulatory agencies, such as the FDA and the SEC, had to furlough critical employees and stop critical activities. If a prolonged government shutdown or other disruption occurs, it could significantly impact the ability of the FDA to timely review, provide feedback on our clinical trial plans and process our regulatory submissions, which could have a material adverse effect on our business. Further, future government shutdowns could impact our ability to access the public markets and obtain necessary capital in order to properly capitalize and continue our operations.

***Our relationships with healthcare professionals, clinical investigators, CROs and third-party payors in connection with our current and future business activities may be subject to federal and state healthcare fraud and abuse laws, false claims laws, transparency laws, government price reporting, and health information privacy and security laws, which could expose us to significant losses, including, among other things, criminal sanctions, civil penalties, contractual damages, exclusion from governmental healthcare programs, reputational harm, administrative burdens and diminished profits and future earnings.***

Healthcare providers and third-party payors play a primary role in the recommendation and prescription of any product candidates for which we obtain marketing approval. Our current and future arrangements with healthcare professionals, clinical investigators, CROs, third-party payors and customers may expose us to broadly applicable fraud and abuse and other healthcare laws and regulations that may constrain the business or financial arrangements and relationships through which we research, as well as market, sell and distribute our products for which we obtain marketing approval. Restrictions under applicable federal and state healthcare laws and regulations may include the following:

- the federal Anti-Kickback Statute which prohibits, among other things, persons and entities from knowingly and willfully soliciting, offering, receiving or providing remuneration, directly or indirectly, in cash or in kind, to induce or reward, or in return for, either the referral of an individual for, or the purchase, order or recommendation of, any good or service, for which payment may be made under a federal healthcare program such as Medicare and Medicaid;
- the federal false claims laws, including the civil False Claims Act, which can be enforced by private citizens through whistleblower or qui tam actions, and civil monetary penalties laws, prohibit individuals or entities from, among other things, knowingly presenting, or causing to be presented, to the federal government, claims for payment that are false or fraudulent or making a false statement to avoid, decrease or conceal an obligation to pay money to the federal government;
- the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), which prohibits, among other things, executing or attempting to execute a scheme to defraud any healthcare benefit program or making false statements or promises in connection with any healthcare benefit program.

relating to healthcare matters;

- the Civil Monetary Penalty Act of 1981 and implementing regulations, which impose penalties against any person entity that, among other things, is determined to have presented or caused to be presented a claim to a federal healthcare program that the person knows or should know is for an item or service that was not provided as clear or is false or fraudulent, or offered or transferred remuneration to a federal healthcare beneficiary that a person knows or should know is likely to influence the beneficiary's decision to order or receive items or services reimbursable by the government from a particular provider or supplier;
- HIPAA, as amended by the Health Information Technology for Economic and Clinical Health Act (HITECH) and the implementing regulations, also imposes obligations, including mandatory contractual terms, on covered entities, which are health plans, healthcare clearinghouses, and certain health care providers, as those terms are defined by HIPAA, and their

50

---

respective business associates and their subcontractors, with respect to safeguarding the privacy, security and transmission of individually identifiable health information;

- federal consumer protection and unfair competition laws, which broadly regulate marketplace activities and activities that potentially harm consumers;
- the federal Physician Payments Sunshine Act requires applicable manufacturers of covered drugs, devices, biologicals and medical supplies for which payment is available under Medicare, Medicaid or the Children's Health Insurance Program, with specific exceptions, to annually report to CMS information regarding payments and other transfers of value to physicians (defined to include doctors, dentists, optometrists, podiatrists and chiropractors), certain non-physician healthcare professionals (such as nurse practitioners and physician assistants, among others), and teaching hospitals as well as information regarding ownership and investment interests held by physicians and their immediate family members; and
- analogous state and foreign laws and regulations, such as state anti-kickback and false claims laws, may apply to sales or marketing arrangements and claims involving healthcare items or services reimbursed by non-governmental third-party payors, including private insurers; state laws that require pharmaceutical companies to comply with the pharmaceutical industry's voluntary compliance guidelines and the relevant compliance regulations promulgated by the federal government and may require drug manufacturers to report information related to payments and other transfers of value to physicians and other healthcare providers, marketing expenditures, or drug pricing; state and local laws that require the registration of pharmaceutical sales and medical representatives; state laws that govern the privacy and security of health information in some circumstances, many of which differ from each other in significant ways and often are not preempted by HIPAA, thus complicating compliance efforts.

Efforts to ensure that our current and future business arrangements with third parties will comply with applicable healthcare and data privacy and security laws and regulations will involve substantial ongoing costs and may require us to undertake or implement additional policies or measures. We may face claims and proceedings by private parties, and claims, investigations and other proceedings by governmental authorities, relating to allegations 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, and it is possible that courts or governmental authorities may conclude that we have not complied with them, or that we may find it necessary or appropriate to settle any such claims or other

proceedings. In connection with any such claims, proceedings, or settlements, we may be subject to significant penalties, including civil, criminal and administrative penalties, damages, fines, disgorgement, imprisonment, exclusion from participation in government funded healthcare programs, such as Medicare and Medicaid, integrity oversight and reporting obligations, contractual damages, reputational harm, diminished profits and future earnings and the curtailment or restructuring of our operations. Defending against any such actions can be costly, time-consuming and may require significant financial and personnel resources. Therefore, even if we are successful in defending against any such actions that may be brought against us, our business may be impaired. Further, if any of the physicians or other healthcare providers or entities with whom we expect to do business is found to be not in compliance with applicable laws, they may be subject to criminal, civil or administrative sanctions, including exclusions from government funded healthcare programs.

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

We are exposed to the risk that our employees, independent contractors, consultants, commercial collaborators, principal investigators, CROs, CDMOs, suppliers and vendors may engage in misconduct or other improper activities. Misconduct by these parties could include failures to comply with FDA regulations, provide accurate information to the FDA, comply with federal and state health care fraud and abuse laws and regulations, accurately report financial information or data or disclose unauthorized activities to us. In particular, research, sales, marketing and business arrangements in the health care industry are subject to extensive laws and regulations intended to prevent fraud, misconduct, kickbacks, self-dealing and other abusive practices. These laws and regulations may restrict or prohibit a wide range of pricing, discounting, marketing and promotion, sales commission, customer incentive programs and other business arrangements. Misconduct by these parties could also involve the improper use of information obtained in the course of clinical trials, which could result in regulatory sanctions and serious harm to our reputation. We have adopted a code of conduct, but it is not always possible to identify and deter misconduct by these parties, and the precautions we take to detect and prevent this activity may not be effective in controlling unknown or unmanaged risks or losses or in protecting us from governmental investigations or other actions or lawsuits stemming from a failure to comply with these laws or regulations. If any such actions are instituted against us, and we are not successful in defending ourselves or asserting our rights, those actions could have a significant impact on our business, including the imposition of significant penalties, including civil, criminal and administrative penalties, damages, fines, disgorgement, imprisonment, exclusion from participation in government funded healthcare programs, such as Medicare and Medicaid, integrity oversight and reporting obligations, contractual damages, reputational harm, diminished profits and future earnings and the curtailment or restructuring of our operations.

***If we fail to comply with environmental, health and safety laws and regulations, we could become subject to fines or penalties or incur costs that could have a material adverse effect on our business.***

We are subject to numerous environmental, health and safety laws and regulations, including those governing laboratory procedures and the handling, use, storage, treatment and disposal of hazardous materials and wastes. Our operations involve the use of hazardous and flammable materials, including chemicals and biological materials. Our operations also produce hazardous waste products. We generally contract with third parties for the disposal of these materials and wastes. We cannot eliminate the risk of contamination or injury from these materials. In the event of contamination or injury resulting from our use of hazardous materials, we could be held liable for any resulting damages, and any liability could exceed our resources. We also could incur significant costs associated with civil or criminal fines and penalties.

Although we maintain workers' compensation insurance to cover us for costs and expenses we may incur due to injuries to our employees resulting from the use of hazardous materials, this insurance may not provide adequate coverage against potential liabilities. We do not maintain insurance for environmental liability or toxic tort claims that may be asserted against us in connection with our storage or disposal of hazardous and flammable materials, including chemicals and biological materials.

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

***Our business activities are subject to the U.S. Foreign Corrupt Practices Act and similar anti-bribery and anti-corruption laws of other countries in which we operate, as well as U.S. and certain foreign export controls, trade sanctions, and import laws and regulations. Compliance with these legal requirements could limit our ability to compete in foreign markets and subject us to liability if we violate them.***

Our business activities are subject to the U.S. Foreign Corrupt Practices Act of 1977, as amended (FCPA), the U.S. domestic bribery statute contained in 18 U.S.C. § 201, the U.S. Travel Act, and similar anti-bribery or anti-corruption laws, regulations or rules of other countries in which we operate. These laws generally prohibit companies and their employees, agents, representatives, business partners, and third-party intermediaries from, offering or providing, directly or indirectly, improper payments or benefits to recipients in the public or private sector. Our business is heavily regulated and therefore involves significant interaction with public officials, including officials of non-U.S. governments. Additionally, in many other countries, hospitals are owned and operated by the government, and doctors and other hospital employees would be considered foreign officials under the FCPA. Recently, the SEC and Department of Justice have increased their FCPA enforcement activities with respect to biotechnology and pharmaceutical companies.

We sometimes leverage third parties to assist with the conduct of our business abroad. As we increase our international business activities, our risks under these laws may increase. We, our employees, agents, representatives, business partners and our third-party intermediaries may have direct or indirect interactions with officials and employees of government agencies or state-owned or affiliated entities and may be held liable for the corrupt or other illegal activities

of these employees, agents, representatives, business partners or third-party intermediaries even if we do not explicitly authorize such activities.

These laws also require that we make and keep books and records that accurately and fairly reflect the transactions of the corporation and to devise and maintain an adequate system of internal accounting controls and compliance procedures designed to prevent violations of anti-corruption laws. While we have policies and procedures to address compliance with such laws, we cannot assure you that all of our employees, agents, representatives, business partners and third-party intermediaries will not take actions in violation of applicable law for which we may be ultimately held responsible.

Allegations or violations of these laws and regulations could result in whistleblower complaints, fines, severe civil or criminal sanctions, settlements, prosecution, enforcement actions, damages, adverse media coverage, investigations, loss of export privileges, disgorgement, and other remedial measures, suspension or debarment from government contracts and prohibitions on the conduct of our business including our ability to offer our products in one or more countries. Responding to any investigation or action will likely result in a materially significant diversion of management's attention and resources and significant defense costs and other professional fees. As a general matter, investigations, enforcement actions and sanctions could damage our reputation, our brand, our international activities, our ability to attract and retain employees and our business, prospects, operating results and financial condition.

In addition, our products may be subject to U.S. and foreign export controls, trade sanctions and import laws and regulations. Governmental regulation of the import or export of our products, or our failure to obtain any required import or export authorization for our products, when applicable, could harm our international sales and adversely affect our revenue. If we fail to comply with export and import regulations and such economic sanctions, penalties could be imposed, including fines and/or denial of certain export privileges. Moreover, any new export or import restrictions, new legislation or shifting approaches in the enforcement or scope of existing regulations, or in the countries, persons, or products targeted by such regulations, could result in decreased use of our products by, or in our decreased ability to export our products to, existing or potential customers with international operations.

***Changes in tax law could increase the tax burden on our orphan drug programs and adversely affect our business and financial condition.***

Changes in tax law, including to the orphan drug tax credit and other changes to U.S. and non-U.S. taxation, could increase our tax liability and adversely affect our operating results. For example, starting from January 1, 2022, the Tax Cuts and Jobs Act of 2017 requires taxpayers to capitalize domestic research and development costs in the year incurred and amortize such costs rather than deduct such costs in the year incurred. When and if we become profitable, these changes may cause us to pay federal income taxes earlier under the revised tax law than under the prior law and may increase our total federal tax liability attributable to orphan drug programs and other research and development. In addition, the

Inflation Reduction Act of 2022 imposes a 1% excise tax on certain repurchases of stock made on or after January 1, 2023. These changes could increase our total federal tax liability when and if we become profitable.

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

### ***Our success is highly dependent on our ability to attract and retain highly skilled executive officers and employees.***

To succeed, we must recruit, retain, manage and motivate qualified clinical, scientific, technical and management personnel, and we face significant competition for experienced personnel. We are highly dependent on the principal members of our management, our scientific founders and other scientific and clinical advisors and consultants, and our scientific and medical staff. If we do not succeed in attracting and retaining such personnel, particularly at the management level, it could adversely affect our ability to execute our business plan and harm our operating results. In particular, the loss of one or more of our executive officers could be detrimental to us if we cannot recruit suitable replacements in a timely manner. We do not maintain "key person" insurance for any of our executives or other employees. We could in the future have difficulty attracting and retaining experienced personnel and may be required to expend significant financial resources in our employee recruitment and retention efforts.

Many of the other biotechnology companies that we compete against for qualified personnel have greater financial and other resources, different risk profiles and a longer history in the industry than we do. They also may provide higher compensation, more diverse opportunities and better prospects for career advancement. Some of these characteristics may be more appealing to high-quality candidates than what we have to offer. If we are unable to continue to attract and retain high-quality personnel, the rate and success at which we can discover, develop and commercialize our product candidates will be limited and the potential for successfully growing our business will be harmed.

Additionally, we rely on our scientific founders and other scientific and clinical advisors and consultants to assist us in formulating our research, development and clinical strategies. These advisors and consultants are not our employees and may have commitments to, or consulting or advisory contracts with, other entities that may limit their availability to us. In addition, these advisors and consultants typically will not enter into non-compete agreements with us. If a conflict of interest arises between their work for us and their work for another entity, we may lose their services. Furthermore, our advisors may have arrangements with other companies to assist those companies in developing products or technologies that may compete with ours. In particular, if we are unable to maintain consulting relationships with our scientific founders or if they provide services to our competitors, our development and commercialization efforts will be impaired and our business will be significantly harmed.

### ***In order to successfully implement our long-term plans and strategies, we will need to grow the size of our organization, and we may experience difficulties in managing this growth.***

In order to successfully implement our development and commercialization plans and strategies, we expect to need additional managerial, operational, sales, marketing, financial and other personnel in the future. Future growth would impose significant added responsibilities on members of management.

Our future financial performance and our ability to successfully develop and, if approved, commercialize our product candidates will depend, in part, on our ability to effectively manage any future growth, and our management may also have to divert a disproportionate amount of its attention away from day-to-day activities in order to devote a substantial amount of time to managing these growth activities.

We currently rely, and for the foreseeable future will continue to rely, in substantial part on certain independent organizations, advisors and consultants to provide certain services, including key aspects of our research and development, clinical development, manufacturing and operations. We cannot assure you that the services of independent organizations, advisors and consultants will continue to be available to us on a timely basis when needed, or that we can find qualified replacements. In addition, if we are unable to effectively manage our outsourced activities or if the quality or accuracy of the services provided by third-party service providers is compromised for any reason, our preclinical studies and the initiation and conduct of our planned clinical trials may be extended, delayed or terminated, and we may not be able to obtain marketing approval of our product candidates or otherwise advance our programs and business. We cannot assure you that we will be able to manage our existing third-party service providers or find other competent outside contractors and consultants on economically reasonable terms, or at all.

If we are not able to effectively expand our organization by hiring new employees and/or engaging additional third-party service providers, we may not be able to successfully implement the tasks necessary to develop and commercialize our product candidates and, accordingly, may not achieve our research, development and commercialization goals.

***Our computer systems, or those of any of our CROs, manufacturers, contractors, consultants or other third parties or potential future collaborators, may fail or suffer security incidents or data privacy breaches or other unauthorized or improper access to, use of, or destruction of our proprietary or confidential data, employee data, or personal data, which could result in additional costs, loss of revenue, significant liabilities, harm to our brand and material disruption of our operations.***

As part of our business, we and our CROs, manufacturers, contractors (including sites performing our clinical trials), consultants and other third parties, collect, maintain and transmit sensitive data on our networks and systems, including our intellectual property and proprietary and confidential business information (such as research data and personal information). Despite the implementation of security measures in an effort to protect systems that store our information, given their size and complexity and the increasing amounts of information maintained on our internal information technology systems, and those of our third-party CROs, manufacturers, contractors (including sites performing our clinical trials), consultants and other third parties, such systems are vulnerable to breakdown or other damage or interruption from, among other things, inadvertent or intentional actions by our employees, contractors, consultants, business partners, and other third parties, cyber-attacks and other hacking attempts by malicious third parties, which may compromise our system infrastructure or lead to the loss, destruction, alteration, prevention of access to, disclosure, dissemination of, or damage or unauthorized access to, our data or other data that we process or maintain or that is

processed or maintained on our behalf, or other assets. Although the impact we have not observed material impacts of cyber-attacks on our operations and financial condition has not been material to date, we and our third-party service providers have frequently been the target of threats of this nature and we expect them these threats and attacks to continue.

To the extent that any Any data breach, disruption or security incident were to result resulting in any loss, destruction, unavailability, alteration, disclosure, dissemination of, or damage or unauthorized access to, our data, or any other data that we process or maintain or that is processed or maintained on our behalf, or other assets, or for it to be believed or reported that any of the foregoing occurred, we could cause us to incur significant liability, including consequential damages, financial harm and reputational damage and the development and commercialization of our product candidates could be delayed. The loss, corruption, or unavailability of clinical trial data for our product candidates also could result in delays in our marketing approval efforts and significantly increase our costs to recover or reproduce the data. We cannot ensure that our data protection efforts and our investment in information technology, or the efforts or investments of CROs, consultants or other third parties, will prevent breakdowns or breaches in our or their systems or other have prevented, or will prevent, cybersecurity breaches or incidents, including those that cause loss, destruction, unavailability, alteration, dissemination of, or damage or unauthorized access to, our data, including personal data, assets and other data processed or maintained on our behalf, that behalf. Any such breakdowns, breaches, or incidents, and any resulting impacts, could have a material adverse effect upon our reputation, business, operations or financial condition.

We also rely on third parties to support the development and manufacture of our product candidates, and any data breaches or other security events relating to their computer systems could also have a material adverse effect on our business. Controls employed by our information technology department and our CROs, consultants and other third parties could prove inadequate, and our ability to monitor such third parties' data security practices is limited. Due to applicable laws, rules, regulations and standards or contractual obligations, we may be held responsible for any information security failure or cyber-attack attributed to our third-party service providers as they relate to the information we share with them. We maintain limited cybersecurity insurance and therefore the successful assertion of one or more large claims against us in connection with a breach or other cybersecurity-related matter could adversely affect our business, financial condition, results of operations and prospects.

Notifications and follow-up actions related to a data breach or other security incident could impact our reputation and cause us to incur significant costs, including significant legal expenses and remediation costs. We expect to incur significant costs in an effort to detect and prevent security incidents, and we may face increased costs and requirements to expend substantial resources in the event of an actual or perceived security incident. However, we cannot guarantee that we will be able to detect or prevent any such incidents, or that we can identify, remediate or otherwise address any such incidents in an effective or timely manner. Our efforts to improve security and protect data from compromise may also identify previously undiscovered instances of data breaches or other cybersecurity incidents. Any data breach, disruption or security incident resulting in any loss, destruction, or alteration of, damage, unauthorized access to or inappropriate or unauthorized disclosure of or dissemination of, our data, including personal data, or other information that is processed or maintained on our behalf, or if any of these is believed or reported to have occurred, we could be exposed to litigation and governmental investigations and inquiries, the further development and commercialization of

our product candidates could be delayed, and we could be subject to significant fines or penalties for any noncompliance with certain state, federal and international privacy and security laws, rules, regulations and standards.

***Our operations are vulnerable to interruption by fire, earthquakes, power loss, telecommunications failure, terrorist activity, pandemics and other events beyond our control, which could harm our business.***

Our facilities are located in the San Francisco Bay Area. We have not undertaken a systematic analysis of the potential consequences to our business and financial results from a major earthquake, flood, blizzard, wildfire, power loss, terrorist activity, pandemics or other disasters and do not have a recovery plan for such disasters. In addition, we do not carry sufficient insurance to compensate us for actual losses from interruption of our business that may occur, and any losses or damages incurred by us could harm our business. Also, our CDMOs and suppliers' facilities are located in multiple locations where other natural disasters or similar events which could severely disrupt our operations, could expose us to liability and could have a material adverse effect on our business. The occurrence of any of these business disruptions could seriously harm our operations and financial condition and increase our costs and expenses.

***A variety of risks associated with development and marketing our product candidates internationally, subject to regulatory approval in applicable jurisdictions, could materially adversely affect our business.***

We may seek regulatory approval of our product candidates outside of the U.S. and/or work with contractors or partners in foreign jurisdictions, and, accordingly, we expect that we will be subject to additional risks and foreign laws and regulatory requirements related to our operations in foreign countries, including:

- differing regulatory requirements and reimbursement regimes;
- unexpected changes in tariffs, trade barriers, price and exchange controls and other regulatory requirements;
- economic weakness, including inflation, or political instability in particular foreign economies and markets;
- compliance with tax, employment, immigration and labor laws for employees living or traveling abroad;
- foreign taxes, including withholding of payroll taxes;
- foreign currency fluctuations, which could result in increased operating expenses and reduced revenue, and other obligations incident to doing business in another country;
- difficulties staffing and managing foreign operations;
- workforce uncertainty in countries where labor unrest is more common than in the U.S.;
- potential liability under the FCPA or comparable foreign regulations;
- challenges obtaining, maintaining, protecting, defending and enforcing our contractual and intellectual property rights, especially in those foreign countries that do not respect and protect intellectual property rights to the same extent as the U.S.;
- production shortages resulting from any events affecting raw material supply or manufacturing capabilities abroad and

- business interruptions resulting from geo-political actions, including war and terrorism, including effects of the Russia-Ukraine conflict, and Middle East conflicts.

These and other risks associated with our international operations may materially adversely affect our ability to attain or maintain profitable operations.

## Risks Related to Our Intellectual Property

*If we are unable to obtain, maintain, protect, defend and enforce patent and other intellectual property coverage for our technology and product candidates, our competitors could develop and commercialize technology and product candidates similar or identical to ours, and our ability to commercialize our technology and product candidates may be adversely affected.*

Our commercial success depends in large part on our ability to obtain, maintain, protect, defend and enforce patents, trade secrets and other intellectual property relating to our product candidates and platforms and to operate without infringing, misappropriating or otherwise violating the intellectual property of others. We rely on patent, copyright, trade secret and trademark laws in the U.S. and certain other countries to protect our technology, and we generally seek to protect our position by filing patent applications in the U.S. and abroad and by acquiring or in-licensing relevant issued patents or pending applications from third parties. However, these efforts may provide only limited protection. There can be no assurance that we or our licensors will obtain any additional issued patents or that any issued patents we or our licensors obtain will provide us with any competitive advantage.

Pending patent applications cannot be enforced until issued, and then only to the extent the issued claims cover the product candidate or relevant technology. There can be no assurance that our patent applications or the patent applications of our licensors will

55

---

result in additional patents being issued or that any such issued patents will afford sufficient protection against competitors with similar technology, nor can there be any assurance that the patents issued will not be designed around or invalidated by third parties.

Even issued patents may later be found invalid or unenforceable, or they may be modified, narrowed in scope, or revoked in proceedings instituted by third parties before various patent offices or in courts in the U.S. and abroad. The degree of future protection for our and our licensor's intellectual property and proprietary rights is uncertain. Only limited protection may be available and may not adequately protect our rights or permit us to gain or keep any competitive advantage. These uncertainties and limitations in our ability to properly protect the intellectual property rights relating to our product candidates could have a material adverse effect on our financial condition and results of operations. Any failure to obtain or maintain patent protection with respect to our technology and product candidates would have a material adverse effect on our business, financial condition, results of operations and prospects.

The patent application process is subject to numerous risks and uncertainties, and there can be no assurance that we or any of our potential future licensors or collaborators will be successful in protecting our product candidates and platforms by obtaining and defending adequate patent coverage. These risks and uncertainties include the following:

- the USPTO and various foreign governmental patent agencies require compliance with a number of procedural, documentary, fee payment and other provisions during the patent process, the noncompliance non-compliance which can result in abandonment or lapse of a patent or patent application, and partial or complete loss of patent rights in the relevant jurisdiction;
- patent applications may not result in any patents being issued;
- patents may be challenged, invalidated, modified, revoked, circumvented, found to be unenforceable, narrowed in scope or otherwise may not provide any competitive advantage;
- our competitors, many of whom have substantially greater resources than we do and many of whom have made significant investments in competing technologies, may seek or may have already obtained patents that will limit, interfere with or eliminate our ability to make, use and sell our potential product candidates;
- there may be significant pressure on the U.S. government and international governmental bodies to limit the scope of patent protection both inside and outside the United States for disease treatments that prove successful, as a matter of public policy regarding worldwide health concerns; and
- countries other than the United States may have patent laws less favorable to patentees than those upheld by U.S. courts, allowing foreign competitors a better opportunity to create, develop and market competing product candidates and limiting the scope of our protection in countries outside the United States.

The patent prosecution process is also expensive and time-consuming, and we and our licensors may not be able to file and prosecute all necessary or desirable patent applications at a reasonable cost or in a timely manner or in all jurisdictions where protection may be commercially advantageous.

We may be unable to obtain or maintain patent applications and patents due to the subject matter claimed in such patent applications and patents being in disclosures in the public domain. It is also possible that we or our licensors will fail to identify patentable aspects of our research and development output before it is too late to obtain patent protection. Furthermore, although we enter into non-disclosure and confidentiality agreements with parties who have access to confidential or patentable aspects of our research and development output, such as our employees, outside scientific collaborators, CROs, third-party manufacturers, consultants, advisors and other third parties, any of these parties may breach such agreements and disclose such output before a patent application is filed. Given the amount of time required for the development, testing and regulatory review of new product candidates, patents protecting such candidates might expire before or shortly after such candidates are commercialized. As a result, our intellectual property may not provide us with sufficient rights to exclude others from commercializing products similar or identical to ours.

***If the scope of any patent protection we obtain is not sufficiently broad, or if we lose any of our patent protection, our ability to prevent our competitors from commercializing similar or identical product candidates would be adversely affected.***

The patent position of biotechnology companies generally is highly uncertain, involves complex legal and factual questions, and has been the subject of much litigation in recent years. As a result, the issuance, scope, validity,

enforceability and commercial value of our patent rights are highly uncertain. Our pending and future patent applications and those of our licensors may not result in patents being issued which protect our product candidates and platforms or which effectively prevent others from commercializing competitive product candidates and technologies or otherwise provide any commercial advantage.

Moreover, the coverage claimed in a patent application can be significantly reduced before the patent is issued, and its scope can be reinterpreted after issuance. Even if patent applications we own or in-license currently or in the future issue as patents, they may not issue in a form that will provide us with any meaningful protection, prevent competitors or other third parties from competing with us, or otherwise provide us with any competitive advantage. Our competitors or other third parties may avail themselves of safe harbor

under the Drug Price Competition and Patent Term Restoration Act of 1984 (Hatch-Waxman Amendments) to conduct research and clinical trials and may be able to circumvent our patent rights by developing similar or alternative technologies or products in a non-infringing manner. Any patents that we may own or in-license may be challenged or circumvented by third parties or may be narrowed, rendered unenforceable, or invalidated as a result of challenges by third parties. Consequently, we do not know whether our product candidates will be protectable or remain protected by valid and enforceable patents.

While we believe our intellectual property allows us to pursue our current development programs, we may not be aware of all third-party intellectual property rights potentially relating to our technology and product candidates. We cannot be certain that we were the first to make the inventions claimed in any owned or any licensed patents or pending patent applications, or that we were the first to file for patent protection of such inventions. Publications of discoveries in the scientific literature often lag 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. If a third party can establish that we or our licensors were not the first to make or the first to file for patent protection of such inventions, our owned or licensed patent applications may not issue as patents and even if issued, may be challenged and invalidated.

The issuance of a patent is not conclusive as to its inventorship, scope, validity or enforceability, and the inventorship, scope, validity or enforceability of our potential future patents or the patents of our licensors that may be challenged in the courts or patent offices in the U.S. and abroad. For example, we may be subject to a third-party pre-issuance submission of prior art, post-grant review (PGR) or inter partes review (IPR) at the USPTO, or other similar proceedings including, opposition, derivation, revocation or reexamination proceedings in the U.S. or abroad. A third party may also claim that our patents or licensed patent rights are invalid or unenforceable in a litigation. The outcome following legal assertions of invalidity and unenforceability is unpredictable. An adverse determination in any such submission, proceeding or litigation could reduce the scope of, or invalidate or render unenforceable, our potential future owned patents or licensed patent rights, allow third parties to commercialize our product candidates and compete directly with us, without payment to us. Such proceedings also may result in substantial cost and require significant time from our

scientists, manufacturing staff and management, even if the eventual outcome is favorable to us. In addition, if the breadth or strength of protection provided by our potential future patents and patent applications or the patents and patent applications of our licensors is threatened, regardless of the outcome, it could dissuade companies from collaborating with us to license, develop or commercialize our product candidates.

***Our commercial success depends significantly on our ability to operate without infringing, misappropriating or otherwise violating the patents and other intellectual property and proprietary rights of third parties.***

Our commercial success depends in part on avoiding infringement, misappropriation or other violation of the patents or other intellectual property rights of third parties. However, our research, development and commercialization activities may be subject to claims that we infringe, misappropriate or otherwise violate patents or other intellectual property rights of others. Other entities may have, develop or obtain patents that could impair our competitive position or limit our ability to make, use, sell, offer for sale or import our product candidates. There is a substantial amount of litigation, both within and outside the U.S., involving patent and other intellectual property rights in the biotechnology industry. Numerous third-party U.S. and foreign issued patents and pending patent applications exist in the fields in which we are developing product candidates. Third-party patents or patent applications may include claims to materials, formulations, methods of manufacture or methods for treatment related to the use or manufacture of our product candidates. Given the vast number of patents in our field of technology, we cannot be certain or guarantee that we do not infringe existing patents or that we will not infringe patents that may be granted in the future.

For example, we are aware of third-party patent rights that could be construed to cover the use of our TN-201 product candidate. We believe that if these third-party patent rights were to be asserted against us, we would have valid defenses against such assertions, including that such patent rights are invalid and/or not infringed. However, if such third-party patent rights were asserted against us and found to be valid, enforceable and infringed, we could be liable for damages and be required to obtain a license to such patent rights prior to commercializing TN-201 both within and outside the U.S., and such license may not be available on commercially reasonable terms or at all. Additionally, we are aware of third-party patent rights related to the use of certain AAV vectors, which have been asserted against others, including in at least one instance against a company for pre-approval activities. If these patent rights were to be asserted against us, we believe we would have valid defenses against such assertions, including that such patent rights are invalid and/or not infringed. However, such defenses may not be successful and we could be liable for damages and need to secure a license to such patent rights, which may not be available on commercially reasonable terms or at all. In the event any of the foregoing were to occur, we may be prevented from further developing and commercializing any affected product candidates, including TN-201.

As the biotechnology industry expands and more patents are issued, the risk increases that our product candidates may be subject to claims of infringement, misappropriation or other violation of the patent or other intellectual property rights of third parties.

Although no third party has asserted a claim of patent infringement against us as of the date of this periodic report, there can be no assurance that we will not be subject to claims of patent or other intellectual property infringement in the future. Furthermore, we may fail to identify relevant patents or patent applications or may identify pending patent

applications of potential interest but incorrectly predict the likelihood that such patent applications may issue with claims of relevance to our technology. We may

incorrectly conclude that a third-party patent is invalid, unenforceable or not infringed by our activities. Pending patent applications that have been published can, subject to certain limitations, be later amended in a manner that could cover our technology and product candidates. Because patent applications are maintained as confidential for a certain period of time, until the relevant application is published, we may be unaware of third-party patents that may be infringed by commercialization of any of our product candidates. Moreover, because patent applications can take many years to issue, there may be currently-pending patent applications that may later result in issued patents that our product candidates may infringe. Identification of third-party patent rights that may be relevant to our technology is difficult because patent searching is imperfect due to differences in terminology among patents, incomplete databases and ambiguity in the meaning of patent claims.

Third parties may assert patent infringement claims against us directed at any of our product candidates based on our existing patent applications or patents that may be granted in the future, regardless of their merit. Any patent-related legal action against us claiming damages and seeking to enjoin commercial activities relating to our products, treatment indications, or processes could subject us to significant liability for damages, including treble damages if we were determined to willfully infringe, and require us to obtain a license to manufacture or market our product candidates. Defense of these claims would involve substantial litigation expense and would be a substantial diversion of management and employee resources from our business. Because of the inevitable uncertainty in intellectual property litigation, we could lose a patent infringement or other action asserted against us regardless of our perception of the merits of the case. An adverse determination in a judicial or administrative proceeding, or the failure to obtain necessary licenses, could prevent us from developing and commercializing our product candidates, which could harm our business, financial condition and operating results. In addition, intellectual property litigation, regardless of its outcome, may cause negative publicity and could prohibit us from marketing or otherwise commercializing our product candidates and technology.

Parties making claims against us may be able to sustain the costs of complex patent litigation more effectively than we can because they have substantially greater resources. Furthermore, because of the substantial amount of discovery required in connection with intellectual property litigation or administrative proceedings, there is a risk that some of our confidential information could be compromised by disclosure. In addition, any uncertainties resulting from the initiation and continuation of any litigation could have a material adverse effect on our ability to raise additional funds or otherwise have a material adverse effect on our business, results of operations, financial condition and prospects.

Patent and other types of intellectual property litigation can involve complex factual and legal questions, and their outcome is uncertain. There is no assurance that a court would find in our favor on questions of infringement, validity, enforceability, or priority. A court of competent jurisdiction could hold that these third-party patents are valid, enforceable, and infringed, which could materially and adversely affect our ability to commercialize any future products we may

develop and any other future products or technologies covered by the asserted third-party patents. In order to successfully challenge the validity of any such U.S. patent in federal court, we would need to overcome a presumption of validity. As this burden is a high one requiring us to present clear and convincing evidence as to the invalidity of any such U.S. patent claim, there is no assurance that a court of competent jurisdiction would invalidate the claims of any such U.S. patent or find that our technology did not infringe any such claims. Further, even if we were successful in defending against any such claims, such claims could require us to divert substantial financial and management resources that we would otherwise be able to devote to our business.

We may in the future pursue invalidity proceedings with respect to third-party patents. The outcome following legal assertions of invalidity is unpredictable. Even if resolved in our favor, these legal proceedings may cause us to incur significant expenses and could distract our technical and management personnel from their normal responsibilities. In addition, there could be public announcements of the results of hearings, motions or other interim proceedings or developments and if securities analysts or investors perceive these results to be negative, it could have a substantial adverse effect on the price of our common stock. Such proceedings could substantially increase our operating losses and reduce the resources available for development activities or any future sales, marketing or distribution activities. We may not have sufficient financial or other resources to conduct such proceedings adequately. Some of these third parties may be able to sustain the costs of such proceedings more effectively than we can because of their greater financial resources. Uncertainties resulting from the initiation and continuation of patent proceedings could compromise our ability to compete in the marketplace. If we do not prevail in the patent proceedings the third parties may assert a claim of patent infringement directed at our product candidates.

In addition, our agreements with some of our suppliers or other entities with whom we do business require us to defend or indemnify these parties to the extent they become involved in infringement claims, including the types of claims described above. We could also voluntarily agree to defend or indemnify third parties in instances where we are not obligated to do so if we determine it would be important to our business relationships. If we are required or agree to defend or indemnify third parties in connection with any infringement claims, we could incur significant costs and expenses that could adversely affect our business, operating results or financial condition.

***We may not be successful in obtaining or maintaining necessary rights to our product candidates through acquisitions and in-licenses.***

Many pharmaceutical companies, biotechnology companies, and academic institutions may have patents and patent applications potentially relevant to our business. We may find it necessary or prudent to obtain licenses to such patents from such third-party intellectual property holders, for example, in order to avoid infringing these third-party patents. We may also require licenses from third parties for certain technologies for use with our product candidates. We may be unable to acquire or in-license any compositions, methods of use, processes or other third-party intellectual property rights from third parties that we identify as necessary for our product candidates. The licensing and acquisition of third-

party intellectual property rights is a competitive area, and a number of more established companies may pursue strategies to license or acquire third-party intellectual property rights that we may consider attractive or necessary. These established companies may have a competitive advantage over us due to their size, capital resources and greater clinical development and commercialization capabilities. In addition, companies that perceive us to be a competitor may be unwilling to assign or license rights to us. We also expect that competition for the in-licensing or acquisition of third-party intellectual property rights that are attractive to us may increase in the future, which may mean fewer suitable opportunities for us as well as higher acquisition or licensing costs. We may be unable to license or acquire third-party intellectual property rights on terms that would allow us to make an appropriate return on our investment or at all. If we are unable to successfully obtain rights to required third-party intellectual property rights or maintain the existing intellectual property rights we have, we may have to abandon development of the relevant program or product candidate, which could have a material adverse effect on our business, financial condition, results of operations, and prospects.

***Changes in U.S. patent law, or laws in other countries, could diminish the value of patents in general, thereby impairing our ability to protect our product candidates.***

Changes in either the patent laws or in the interpretations of patent laws in the U.S. and other countries may diminish the value of our intellectual property and may increase the uncertainties and costs surrounding the prosecution of patent applications and the enforcement or defense of issued patents. We cannot predict the breadth of claims that may be allowed or enforced in our potential future patents or in third-party patents. In addition, the U.S. Congress or other foreign legislative bodies may pass patent reform legislation that is unfavorable to us.

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

Furthermore, the U.S. Supreme Court and the U.S. Court of Appeals for the Federal Circuit have made, and will likely continue to make, changes in how patent laws in the U.S. are interpreted. The U.S. Supreme Court has ruled on several patent cases in recent years, either narrowing the scope of patent protection available in certain circumstances or weakening the rights of patent owners in certain situations. Similarly, foreign courts have made and will continue to make changes in how the patent laws in their respective jurisdictions are interpreted. We cannot predict future changes in the interpretation of patent laws or changes to patent laws that might be enacted into law by U.S. and foreign legislative bodies. 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 patent and the patents we might obtain or license in the future.

***We may be subject to claims challenging the inventorship or ownership of our owned patent applications or in-licensed patent rights and other intellectual property.***

We or our licensors may be subject to claims that former employees or other third parties have an ownership interest in our owned patent applications or in-licensed patents, trade secrets or other intellectual property rights as an inventor or co-inventor. For example, we or our licensors may have inventorship disputes arise from conflicting obligations of employees, consultants or other third parties who are involved in developing our product candidates. Litigation may be necessary to defend against these and other claims challenging inventorship or ownership of our patent applications or our licensors' owned or in-licensed patents, trade secrets or other intellectual property rights. If we or our licensors fail in

defending any such claims, in addition to paying monetary damages, we may lose valuable intellectual property rights, such as exclusive ownership of, or right to use, intellectual property rights that are important to our product candidates. It may be necessary or we may desire to enter into a license to settle any such claim; however, there can be no assurance that we would be able to obtain a license on commercially reasonable terms, if at all. Such an outcome could have a material adverse effect on our business. Even if we are successful in defending against such claims, litigation could result in substantial costs and distraction to management and other employees, and any litigation or the threat of litigation may adversely impact our reputation or affect our ability to hire employees or contract with independent contractors.

In addition, while it is our policy to require our employees, consultants, advisors, contractors and other third parties who may be involved in the conception or development of intellectual property rights to execute agreements assigning such intellectual property rights to us, we or our licensors may be unsuccessful in executing such agreements with each party who, in fact, conceives or develops intellectual property rights that we regard as our own. The assignment of intellectual property rights may not be self-executing or sufficient in scope, or the assignment agreements may be breached, and we or our licensors may be forced to bring claims against third

59

---

parties, or defend claims that they may bring against us, to determine the ownership of what we regard as our intellectual property rights. Furthermore, individuals executing agreements with us may have preexisting or competing obligations to a third party, such as an academic institution, and thus an agreement with us or our licensors may be ineffective in perfecting ownership of inventions developed by that individual. Such claims could have a material adverse effect on our business, financial condition, results of operations, and prospects.

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

Patents have a limited lifespan. In the U.S., if all maintenance fees are timely paid, the natural expiration of a patent is generally 20 years from its earliest U.S. non-provisional filing date. Various extensions may be available, but the life of a patent, and the protection it affords, is limited. Even if patents covering our product candidates are obtained, once the patent life has expired, we may be open to competition from competitive products. Given the amount of time required for the development, testing and regulatory review of new product candidates, patents protecting such candidates might expire before or shortly after such candidates are commercialized. As a result, our patent portfolio may not provide us with sufficient rights to exclude others from commercializing products similar or identical to ours.

***If we do not obtain patent term extension for our product candidates, our business may be materially harmed.***

Depending upon the timing, duration and specifics of FDA marketing approval of our product candidates, one or more of our U.S. patents or those of our licensors may be eligible for limited patent term restoration under the Hatch-Waxman Amendments. Patent term extension may also be available in certain foreign countries upon regulatory approval of our product candidates.

We may not be granted any extensions for which we apply in the U.S. or any other jurisdiction because of, for example, failing to exercise due diligence during the testing phase or regulatory review process, failing to apply within applicable deadlines, failing to apply prior to expiration of relevant patents or otherwise failing to satisfy applicable requirements. Moreover, the applicable time period or the scope of patent protection afforded could be less than we request. In addition, to the extent we wish to pursue patent term extension based on a patent that we in-license from a third party, we would need the cooperation of that third party. If we are unable to obtain patent term extension or restoration, or the foreign equivalent, or if the term of any such extension is less than we request, our competitors may obtain approval of competing products following our patent expiration, and our revenue could be reduced, possibly materially.

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

Filing, prosecuting and defending patents in all countries throughout the world would be prohibitively expensive, and our intellectual property rights in some countries outside the U.S. can be less extensive than those in the U.S. In addition, the laws of some foreign countries do not protect intellectual property rights to the same extent as federal and state laws in the U.S., even in **jurisdiction** jurisdictions where we do pursue patent protection. Consequently, we may not be able to prevent third parties from practicing our or our licensors' inventions in all countries outside the U.S., even in jurisdictions where we or our licensors do pursue patent protection. Competitors may use our technologies in jurisdictions where we have not obtained patent protection to develop their own competing products and, further, may export otherwise infringing products to territories where we have patent protection, but enforcement is not as strong as that in the U.S.

Many countries have compulsory licensing laws under which a patent owner may be compelled to grant licenses to third parties. In addition, many countries limit the enforceability of patents against government agencies or government contractors. In these countries, the patent owner may have limited remedies, which could materially diminish the value of such patent. If we are forced to grant a license to third parties with respect to any patents relevant to our business, our competitive position may be impaired, and our business, financial condition, results of operations and prospects may be adversely affected.

In Europe, beginning June 1, 2023, European applications and patents may be subjected to the jurisdiction of the Unified Patent Court (UPC). European patent applications now have the option, upon grant of a patent, of becoming a Unitary Patent which will be subject to the jurisdiction of the UPC. This is a significant change in European patent practice. As the UPC is a new court system, there is limited precedent for the court, increasing the uncertainty of any litigation. As a single court system can invalidate a European patent, we, where applicable have opted out of the UPC and as such, but for proceedings such as an opposition, each European patent would need to be challenged in each individual country.

Geo-political actions in the U.S. and in foreign countries could increase the uncertainties and costs surrounding the prosecution or maintenance of our patent applications or those of any current or future licensors and the maintenance, enforcement or defense of our issued patents or those of any current or future licensors. For example, the U.S. and foreign government actions related to Russia's invasion of Ukraine may limit or prevent filing, prosecution and maintenance of patent applications in Russia. Government actions may also prevent maintenance of issued patents in Russia. These

actions could result in abandonment or lapse of our patents or patent applications, resulting in partial or complete loss of patent rights in Russia. If such an event were to occur, it could have a material adverse effect on our business. In addition, a decree was adopted by the Russian government in March 2022, allowing Russian

companies and individuals to exploit inventions owned by patentees that have citizenship or nationality in, are registered in, or have predominately primary place of business or profit-making activities in the U.S. and other countries that Russia has deemed unfriendly without consent or compensation. Consequently, we would not be able to prevent third parties from practicing our inventions in Russia or from selling or importing products made using our inventions in and into Russia. Accordingly, our competitive position may be impaired, and our business, financial condition, results of operations and prospects may be adversely affected.

***Obtaining and maintaining our patent protection depends on compliance with various procedural, documentary, fee payment and other requirements imposed by regulations and 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/or patent applications will be due to the USPTO and various foreign patent offices outside of the U.S. at various points over the lifetime of our potential future patents and patent applications and those of our licensors. We rely on our outside patent annuity service to pay these fees when due. Additionally, the USPTO and various foreign patent offices require compliance with a number of procedural, documentary, fee payment and other similar provisions during the patent application process. We are also dependent on our licensors to take the necessary action to comply with these requirements with respect to our licensed intellectual property. An inadvertent lapse or non-compliance with such requirements can sometimes be cured by payment of a late fee or by other means in accordance with rules applicable to the particular jurisdiction. However, there are situations in which noncompliance can result in abandonment or lapse of the patent or patent application, resulting in partial or complete loss of patent rights in the relevant jurisdiction. If such an event were to occur, it could have a material adverse effect on our business, financial condition and results of operations.

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

We intend to use registered or unregistered trademarks or trade names to brand and market ourselves and our products, but we do not yet own a U.S. registered trademark for our corporate name, "Tenaya". Our future trademark applications in the U.S. and in foreign jurisdictions may not be allowed or may subsequently be opposed. Once filed and registered, our potential future trademarks or trade names may be challenged, infringed, circumvented or declared generic or determined to be infringing on other marks. We may not be able to protect our rights to these potential future trademarks and trade names, which we need to build name recognition among potential partners or customers in our markets of interest. At times, competitors may adopt trade names or trademarks similar to ours, thereby impeding our

ability to build brand identity and possibly leading to market confusion. As a means to enforce our potential future trademark rights and prevent infringement, we may be required to file trademark claims against third parties or initiate trademark opposition proceedings, which can be expensive and time-consuming. In addition, there could be potential trade name or trademark infringement claims brought by owners of other registered trademarks or trademarks that incorporate variations of our potential future registered or unregistered trademarks or trade names. Over the long term, if we are unable to establish name recognition based on our trademarks and trade names, then we may not be able to compete effectively, and our business may be adversely affected.

Additionally, our potential future registered trademarks may not be maintained or enforced. During trademark registration proceedings, we may receive rejections. Although we would be given an opportunity to respond to those rejections, we may be unable to overcome such rejections. In addition, in the USPTO and in comparable agencies in many foreign jurisdictions, third parties are given an opportunity to oppose pending trademark applications and to seek to cancel registered trademarks. Opposition or cancellation proceedings may be filed against our potential future trademark applications and registrations, and our potential future trademarks may not survive such proceedings. If we do not secure registrations for our potential future trademarks, we may encounter more difficulty in enforcing them against third parties than we otherwise would. Our efforts to enforce or protect our proprietary rights related to trademarks, domain names or other intellectual property may be ineffective and could result in substantial costs and diversion of resources and could adversely affect our financial condition or results of operations.

***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 on the intellectual property underlying our technology and product candidates, we also rely on the protection of our trade secrets, including unpatented know-how, technology and other proprietary information to maintain our competitive position. Although we have taken steps to protect our trade secrets and unpatented know-how, including entering into confidentiality agreements with third parties who have access to such information, and confidential information and invention assignment agreements with employees, consultants, advisors and other third parties involved in the development of intellectual property, we cannot guarantee that we and our licensors have entered into such agreements with each party that may have had access to our trade secrets or proprietary information or that has been involved in the development of intellectual property. Additionally, we cannot provide any assurances that all such agreements have been duly executed, that these parties will not breach such agreements and disclose our proprietary information, including our trade secrets, or that we would be able to obtain adequate remedies for such breaches should they occur. We may not be able to prevent the unauthorized disclosure or use of our trade secrets. Monitoring unauthorized uses and disclosures is difficult and we do not know whether the steps we have taken to protect our proprietary

technologies will be effective. Enforcing a claim that a party illegally disclosed or misappropriated a trade secret is difficult, expensive and time-consuming, and the outcome is unpredictable. In addition, some courts inside and outside the U.S. are less willing or unwilling to protect trade secrets. Given that our proprietary position is based, in part, on our know-how and trade secrets and despite our efforts to protect our trade secrets, our competitors' discovery of our proprietary technology, trade secrets or confidential information or other unauthorized use or disclosure of such information would impair our competitive position and may have a material adverse effect on our business, financial condition, results of operations and prospects.

Moreover, third parties may still derive similar information independently, and we would have no right to prevent them from using that information to compete with us. We expect know-how and information to be disseminated over time within the industry through independent development, publication of journal articles, and movement of personnel between companies and from academic to industry scientific positions. We seek to preserve the integrity and confidentiality of our data and trade secrets by maintaining physical security of our premises and physical and electronic security of our information technology systems, but such security measures may be breached, and we may not have adequate remedies for any such breach. If any of these events occurs or if we otherwise lose protection for our trade secrets, the value of this information may be greatly reduced, and our competitive position would be harmed.

***We may be subject to claims that we or our employees, consultants, advisors or contractors have wrongfully used or disclosed alleged confidential information or trade secrets.***

As is common in the biotechnology and pharmaceutical industry, in addition to our employees, we engage the services of consultants to assist us in the development of our product candidates. Many of these consultants, and many of our employees, were previously employed at, or may have previously provided or may be currently providing consulting services to, other biotechnology and pharmaceutical companies including our competitors or potential competitors. We may become subject to claims that we, our employees or consultants inadvertently or otherwise used or disclosed trade secrets or confidential or other information proprietary of their former employers or their former or current clients.

In addition, we have entered into and may in the future enter into non-disclosure and confidentiality agreements to protect the proprietary positions of third parties, such as collaborators, CROs, third-party manufacturers, consultants, potential partners and other third parties. We may become subject to litigation where a third party asserts that we or our employees or other third parties inadvertently or otherwise breached the agreements and used or disclosed trade secrets or other information proprietary to the third parties. Defense of any such claims, regardless of their merit, could involve substantial litigation expense and be a substantial diversion of resources from our business. We cannot predict whether we would prevail in any such claims. Moreover, intellectual property litigation, regardless of its outcome, may cause negative publicity and could prohibit us from marketing or otherwise commercializing our product candidates and technology. Failure to defend against any such claim could subject us to significant liability for monetary damages or prevent or delay our developmental and commercialization efforts, including the loss of valuable intellectual property rights or personnel, all of which could adversely affect our business. Even if we are successful in defending against these claims, litigation could result in substantial costs and be a distraction to our management team and other employees.

***Our rights to develop and commercialize our technology and product candidates may be subject, in part, to us obtaining licenses from others and the terms and conditions of such licenses. If we fail to comply with our obligations in any agreement under which we license intellectual property rights from third parties, we could lose licensed rights that are important to our business.***

We have entered into and may in the future enter into additional license agreements with third parties to advance our research or allow commercialization of product candidates. These licenses may not provide us with exclusive rights in all relevant fields of use and in all territories in which we may wish to develop or commercialize our technology and products.

In addition, we may not have the right to control the preparation, filing, prosecution, maintenance, enforcement, and defense of patents and patent applications covering the technology that we license. If our licensors fail to prosecute, maintain, enforce, and defend, or lose rights to such patents or patent applications, the rights we have licensed may be reduced or eliminated, and our right to develop and commercialize any product that is the subject of such licensed rights could be adversely affected. Even where we have the right to control patent prosecution of patents and patent applications we have licensed from third parties, we may still be adversely affected or prejudiced by actions or inactions taken by or on behalf of our licensors prior to the date upon which we assumed control over patent prosecution.

Our licensors may have relied on third-party consultants or collaborators or on funds from third parties such that our licensors are not the sole and exclusive owners of the patents we in-licensed. If other third parties have ownership rights to our in-licensed patents, our rights to use the licensed intellectual property would not be exclusive and they may be able to license such patents to our competitors, permitting our competitors to market competing products and technology. This could have a material adverse effect on our competitive position, business, financial conditions, results of operations, and prospects.

For example, the intellectual property we license from UTSW is subject to certain non-commercial rights reserved by UTSW. Patents licensed to us could be put at risk of being invalidated or interpreted narrowly in litigation filed by or against our licensors or

another licensee or in administrative proceedings brought by or against our licensors or another licensee in response to such litigation or for other reasons. As a result, we may not be able to prevent competitors or other third parties from developing and commercializing competitive products, including in territories covered by our licenses.

It is possible that we may be unable to obtain additional licenses at a reasonable cost or on reasonable terms, if at all. Even if we are able to obtain a license, it may be non-exclusive, thereby giving our competitors access to the same technologies licensed to us. In that event, we may be required to expend significant time and resources to redesign our technology, product candidates, or the methods for manufacturing them or to develop or license replacement technology, all of which may not be feasible on a technical or commercial basis. If we are unable to do so, we may be unable to develop

or commercialize the affected product candidates, which could harm our business, financial condition, results of operations, and prospects significantly.

Our current licenses impose, and our future licenses likely will impose, various diligence, royalty payment, milestone payment, insurance and other obligations on us. If we fail to comply with any of these or other obligations in our license agreements, we may be required to pay damages and the licensor may have the right to terminate the licenses. Termination by the licensor would cause us to lose valuable rights and could prevent us from developing and commercializing our product candidates and proprietary technologies. Our business would be seriously harmed if any current or future licenses terminate, if the licensors fail to abide by the terms of the license, if the licensors fail to enforce licensed patents against infringing third parties, if the licensed patents or other rights are found to be invalid or unenforceable, or if we are unable to enter into necessary licenses on acceptable terms. If any such event occurs, competitors or other third parties may gain the freedom to seek regulatory approval of, and to market, products identical to ours. Further, we may have to negotiate new or reinstated licenses with less favorable terms or we may not have sufficient intellectual property rights to operate our business. This could have a material adverse effect on our competitive position, business, financial condition, results of operations, and prospects.

The agreements under which we license intellectual property or technology from third parties are complex, and certain provisions in such agreements may be susceptible to multiple interpretations. Disputes may arise between us and our current and future licensors. In spite of our efforts, our current and future licensors might conclude that we have materially breached our obligations under our license agreements and might therefore terminate such license agreements, thereby removing our ability to develop and commercialize products and technology covered by these license agreements. The resolution of any contract interpretation disagreement that may arise could narrow what we believe to be the scope of our rights to the relevant intellectual property or technology, or increase what we believe to be our financial or other obligations under the relevant agreement, either of which could have a material adverse effect on our business, financial condition, results of operations, and prospects. Moreover, if disputes over intellectual property that we have licensed prevent or impair our ability to maintain our current licensing arrangements on commercially acceptable terms, or are insufficient to provide us the necessary rights to use the intellectual property rights, we may be unable to successfully develop and commercialize the affected product candidates, which could have a material adverse effect on our business, financial conditions, results of operations, and prospects.

Our licensors may also own or control intellectual property that has not been licensed to us and, as a result, we may be subject to claims, regardless of their merit, that we are infringing or otherwise violating our licensor's rights. In addition, while we cannot currently determine the amount of royalty obligations we would be required to pay on the sales of future products, if any, the amounts may be significant. The amount of our future royalty obligations will depend on the technology and intellectual property we use in product candidates that we successfully develop and commercialize, if any. Therefore, even if we successfully develop and commercialize any product candidates, we may be unable to achieve or maintain profitability.

***Intellectual property discovered through government funded programs may be subject to federal regulations such as "march-in" rights, certain reporting requirements and a preference for U.S.-based companies. Compliance with such regulations may limit our exclusive rights and limit our ability to contract with non-U.S. manufacturers.***

We have in-licensed, and we may acquire or in-license in the future, certain patents, patent applications or other intellectual property generated using U.S. government funding or grants. Pursuant to the Bayh-Dole Act of 1980, the U.S. government has certain rights in inventions developed with government funding. These rights include a non-exclusive, non-transferable, irrevocable worldwide license to use inventions for any governmental purpose. In addition, the U.S. government has the right, under certain limited circumstances, to require us to grant exclusive, partially exclusive, or non-exclusive licenses to any of these inventions to a third-party if it determines that: (1) adequate steps have not been taken to commercialize the invention; (2) government action is necessary to meet public health or safety needs; or (3) government action is necessary to meet requirements for public use under federal regulations (also referred to as march-in rights). For example, the intellectual property we license from UTSW is subject to certain rights retained by the U.S. government, including march-in rights. If the U.S. government exercises its march-in rights in our current or future intellectual property rights generated using U.S. government funding or grants, we could be forced to license or sublicense intellectual property developed by us or that we license on terms unfavorable to us, and there can be no assurance that we would receive compensation from the U.S. government for the exercise of such rights. The U.S. government also has the right to take title to these inventions if the grant recipient fails to disclose the invention to the government or fails to file an application to register the intellectual property within specified time limits. Intellectual property generated under a government funded program is also

63

---

subject to certain reporting requirements, compliance with which may require us or the applicable licensor to expend substantial resources. In addition, the U.S. government requires that any products embodying any of these inventions or produced through the use of any of these inventions be manufactured substantially in the U.S. This preference for U.S. industry may limit our ability to contract with non-U.S. product manufacturers for products covered by such intellectual property, and may be waived by the federal agency that provided the funding if the owner or assignee of the intellectual property can show that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the U.S. or that under the circumstances domestic manufacture is not commercially feasible. Any failure by us to comply with federal regulations regarding intellectual property rights that were developed through the use of U.S. government funding could have a material adverse effect on our business, financial condition, results of operations, and prospects.

### **Risks Related to Our Dependence on Third Parties**

***We rely on third parties to conduct our preclinical studies and our clinical trials, and plan to rely on third parties to conduct such future drug development activities. These third parties may not perform satisfactorily, including failing to meet completion deadlines, or to comply with applicable regulatory requirements, which may harm our business.***

The third parties upon which we rely to conduct our preclinical studies and clinical trials have a significant role in the conduct of such drug development activities and the subsequent collection and analysis of data. These third parties are not our employees, and except for remedies available to us under our agreements with such third parties, we have limited

ability to control the amount or timing of resources that any such third party devotes to our preclinical studies or our clinical trials. The third parties we rely on for these services may also have relationships with other entities, some of which may be our competitors, for whom they may also be conducting clinical trials or other drug development activities, which could affect their performance on our behalf. Some of these third parties may terminate their engagements with us at any time. We also expect to have to negotiate budgets and contracts with CROs and clinical trial sites and we may not be able to do so on favorable terms. If we need to enter into alternative arrangements with, or replace or add any third parties, it would involve a transition period, and may require substantial cost and extensive management time and focus. Any of these events may delay our drug development activities, increase costs, and materially impact our ability to meet our desired clinical development timelines.

Our heavy reliance on these third parties for such drug development activities reduces our control over these activities. As a result, we have less direct control over the conduct, timing and completion of preclinical studies and clinical trials and the management of data developed through such drug development activities than if we were relying entirely upon our own staff. Nevertheless, we are responsible for ensuring that each of our preclinical studies and clinical trials is conducted in accordance with applicable protocol, legal and regulatory requirements and scientific standards, such as GCP and cGMP, and our reliance on third parties does not relieve us of these responsibilities. Regulatory authorities enforce these requirements through periodic inspections of trial sponsors, principal investigators and trial sites. If we or any of our CROs fail to comply with applicable requirements, such as GCP or cGMP, the clinical data generated in our clinical trials may be deemed unreliable and the FDA, EMA or comparable foreign regulatory authorities may require us to perform additional clinical trials before approving our marketing applications. There can be no assurance that upon inspection by a given regulatory authority, such regulatory authority will determine that any of our clinical trials substantially comply with applicable regulations. Moreover, our business may be implicated if any of these third parties violates federal or state fraud and abuse or false claims laws and regulations or healthcare privacy and security laws.

If these third parties do not successfully carry out their contractual duties, meet expected deadlines or conduct our clinical trials in accordance with regulatory requirements or our stated protocols, we will not be able, or may be delayed in, obtaining marketing approvals for our product candidates or otherwise successfully commercializing our product candidates.

***We rely on third parties to produce certain of our product candidates. This increases the risk that we will not have sufficient quality and quantities of product candidates or such quantities at an acceptable cost, which could delay, prevent or impair our business.***

We have established end-to-end in-house AAV manufacturing capabilities to support our product candidates arising from our Gene Therapy and Cellular Regeneration platforms. However, in order to optimize our use of resources and availability of extensive third-party experience in small molecule manufacturing, we intend to continue to rely on third-party manufacturers for our small molecule programs.

We do not have long-term supply agreements, and we purchase our required drug product on a purchase order basis, which means that aside from any binding purchase orders we may have, our supplier could cease supplying to us or change the terms on which it is willing to continue supplying to us at any time. If we experience an unexpected loss of

supply of our product candidates for any reason, whether as a result of manufacturing, supply or storage issues or otherwise, we could experience delays, disruptions, suspensions or terminations of, or be required to restart or repeat, any pending or ongoing preclinical studies or clinical trials. Furthermore, any decision by us to change a third-party manufacturer could result in delays in our manufacturing supply chain which could delay or otherwise impact development of our programs and result in increased costs.

We may be unable to maintain or establish required agreements with third-party manufacturers on acceptable terms. Even if we are able to do so, reliance on third-party manufacturers entails additional risks, including:

- the failure of the third party to manufacture our product candidates according to our schedule and specifications at all, including if our third-party contractors give greater priority to the supply of other products over our product candidates or otherwise do not satisfactorily perform according to the terms of the agreements between us and them;
- the termination or nonrenewal of arrangements or agreements by our third-party contractors at a time that is convenient or inconvenient for us;
- the breach by the third-party contractors of our agreements with them;
- the failure of third-party contractors to manufacture our product candidates according to our specifications or comply with applicable regulatory requirements, including cGMP;
- the mislabeling of clinical supplies, potentially resulting in the wrong dose amounts being supplied or active drug placebo not being properly identified;
- clinical supplies not being delivered to clinical sites on time, leading to clinical trial interruptions, or of drug supplies not being distributed to commercial vendors in a timely manner, resulting in lost sales; and
- the infringement, misappropriation or other violation of our intellectual property or proprietary information.

We do not have complete control over all aspects of the manufacturing process of our CDMOs and are dependent on these CDMOs for compliance with cGMP regulations for manufacturing active pharmaceutical ingredients (API), drug substance and finished drug products. We are in the process of developing our supply chain for each of our product candidates and intend to put in place framework agreements under which CDMOs will provide us with necessary quantities of API, drug substance and drug product based on our development needs. As we advance our product candidates through development, we will consider our lack of redundant supply for each of our product candidates to protect against any potential supply disruptions. However, we may be unsuccessful in putting in place such framework agreements or protecting against potential supply disruptions.

Our failure, or the failure of our third-party manufacturers, to comply with applicable regulations could result in sanctions being imposed on us, including fines, injunctions, civil penalties, delays, suspension or withdrawal of approvals, license revocation, seizures or recalls of product candidates or drugs, operating restrictions and criminal prosecutions, any of which could significantly and adversely affect supplies of our product candidates or drugs and harm our business and results of operations.

We rely on third-party suppliers for the raw materials required for the production of our product candidates for all of our programs. Our dependence on these third-party suppliers and the challenges we may face in obtaining adequate supplies of raw materials involve several risks, including limited control over pricing, availability, quality and delivery schedules. As a small company, our negotiation leverage is limited and we are likely to get lower priority than our competitors who are larger than we are. We cannot be certain that our suppliers will continue to provide us with the quantities of these raw materials that we require or satisfy our anticipated specifications and quality requirements. Any performance failure on the part of our suppliers could delay the development and potential commercialization of our product candidates, including limiting supplies necessary for clinical trials and regulatory approvals, which would seriously harm our business.

Our dependence upon others for the manufacture of our product candidates may adversely affect our future profit margins and our ability to commercialize any product candidates that receive marketing approval on a timely and competitive basis.

***If we engage in future acquisitions or strategic partnerships, this may increase our capital requirements, dilute our stockholders, cause us to incur debt or assume contingent liabilities, and subject us to other risks.***

From time to time, we evaluate various acquisition opportunities and strategic partnerships, including licensing or acquiring complementary products, intellectual property rights, technologies or businesses. Any potential acquisition or strategic partnership may entail numerous risks, including:

- increased operating expenses and cash requirements;
- the assumption of additional indebtedness or contingent liabilities;
- the issuance of our equity securities;
- assimilation of operations, intellectual property and products of an acquired company, including difficulties associated with integrating new personnel;
- the diversion of our management's attention from our existing programs and initiatives in pursuing such a strategic merger or acquisition;

65

---

- unauthorized use or disclosure of our confidential information accessed in connection with partnership activities;
- retention of key employees, the loss of key personnel and uncertainties in our ability to maintain key business relationships;
- risks and uncertainties associated with the other party to such a transaction, including the prospects of that party and their existing products or product candidates and marketing approvals;
- our inability to generate revenue from acquired technology and/or products sufficient to meet our objectives in undertaking the acquisition or even to offset the associated acquisition and maintenance costs; and
- our inability to realize anticipated efficiencies and strategic benefits from such acquisitions or strategic partnerships.

In addition, if we undertake acquisitions or pursue partnerships in the future, we may issue dilutive securities, assume or incur debt obligations, incur large one-time expenses and acquire intangible assets that could result in significant future amortization expense.

***We may enter into collaborations with third parties for the development and commercialization of product candidates. If we are not able to establish those collaborations on commercially reasonable terms or those collaborations are not successful, we may not be able to capitalize on the market potential of these product candidates.***

We strategically evaluate collaborations and partnerships with biopharmaceutical companies that may have more robust and complementary capabilities and resources to accelerate the development and maximize the availability and potential of our product candidates. The collaboration negotiation process is time-consuming and complex. If and when we seek to enter into collaborations, we may not be able to negotiate collaborations on a timely basis, on acceptable terms, or at all. Whether we reach a definitive agreement for a collaboration will depend, among other things, upon our assessment of the collaborator's resources and expertise, the terms and conditions of the proposed collaboration and the proposed collaborator's evaluation of a number of factors. Those factors may include the design or results of clinical trials, the stage of development, the likelihood of approval by the FDA, EMA or comparable foreign regulatory authorities, the potential market for the subject product candidate, the costs and complexities of manufacturing and delivering such product candidate to patients, the potential of competing drugs, the existence of uncertainty with respect to our ownership of intellectual property, alternative product candidates or technologies, and industry and market conditions generally.

If we are unable to reach a definitive agreement, we may have to curtail the development of a product candidate, reduce or delay its development program or one or more of our other development programs, delay its potential commercialization or reduce the scope of any sales or marketing activities, or increase our expenditures and undertake development or commercialization activities at our own expense. If we elect to increase our expenditures to fund development or commercialization activities on our own, we may need to obtain additional capital, which may not be available to us on acceptable terms or at all. If we do not have sufficient funds, we may not be able to further develop our product candidates or bring them to market and generate product revenue.

If we enter into any collaboration arrangements with any third parties, we will likely have limited control over the amount and timing of resources that our collaborators dedicate to the development or commercialization of our product candidates. Our ability to generate revenues from these arrangements will depend on our collaborators' abilities and efforts to successfully perform the functions assigned to them in these arrangements. Collaborations involving our product candidates would pose numerous risks to us, including the following:

- collaborators have significant discretion in determining the efforts and resources that they will apply to, and the manner in which they perform their obligations under, these collaborations and may not perform their obligation expected;
- the relationship may require us to incur non-recurring and other charges, increase our near- and long-term expenditures, issue securities that dilute our existing stockholders, or disrupt our management and business;
- collaborators may deemphasize or not pursue development and commercialization of our product candidates or

may elect not to continue or renew development or commercialization programs based on clinical trial results, changes in the collaborators' strategic focus, including as a result of a business combination or sale or disposition business unit or development function, or available funding or external factors such as an acquisition that diverts resources or creates competing priorities;

- collaborators may delay clinical trials, provide insufficient funding for a clinical trial program, stop a clinical trial or abandon a product candidate, repeat or conduct new clinical trials or require a new formulation of a product candidate for clinical testing;
- collaborators could independently develop, or develop with third parties, products that compete directly or indirectly with our product candidates if the collaborators believe that competitive products are more likely to be successfully developed or can be commercialized under terms that are more economically attractive than ours;

66

---

- a collaborator with marketing and distribution rights to multiple products may not commit sufficient resources to the marketing and distribution of our product relative to other products;
- we may grant exclusive rights to our collaborators that would prevent us from collaborating with others;
- collaborators may not properly obtain, maintain, defend, protect or enforce our intellectual property rights or may use our proprietary information and intellectual property in such a way as to invite litigation or other intellectual property-related proceedings that could jeopardize or invalidate our proprietary information and intellectual property or expose us to potential litigation or other intellectual property related proceedings;
- disputes may arise between the collaborators and us that result in the delay or termination of the research, development or commercialization of our product candidates or that result in costly litigation or arbitration that diverts management attention and resources;
- collaborations may be terminated and, if terminated, may result in a need for additional capital to pursue further development or commercialization of the applicable product candidates;
- collaboration agreements may not lead to development or commercialization of product candidates in the most efficient manner or at all;
- collaborators may not provide us with timely and accurate information regarding development progress and activities under the collaboration or may limit our ability to share such information, which could adversely impact our ability to report progress to our investors and otherwise plan our own development of our product candidates;
- collaborators may own or co-own intellectual property covering our products that results from our collaborating with them, and in such cases, we would not have the exclusive right to develop or commercialize such intellectual property; and
- a collaborator's sales and marketing activities or other operations may not be in compliance with applicable laws resulting in civil or criminal proceedings.

If an agreement with a collaborator terminates, our access to technology and intellectual property licensed to us by that collaborator may be restricted or terminate entirely, which may delay our continued development of our product candidates utilizing the collaborator's technology or intellectual property or require us to stop development of those product candidates completely. We may also find it more difficult to find a suitable replacement collaborator or attract

new collaborators, and our development programs may be delayed or the perception of us in the business and financial communities could be adversely affected. Any collaborator may also be subject to many of the risks relating to product development, regulatory approval, and commercialization described in this "Risk Factors" section, and any negative impact on our collaborators may adversely affect us.

***If, in the future, we are unable to establish sales and marketing capabilities or enter into agreements with third parties to sell and market any product candidates we may develop, we may not be successful in commercializing those product candidates if and when they are approved.***

We do not have a sales or marketing infrastructure and have no experience in the sale, marketing or distribution of pharmaceutical products. To achieve commercial success for any approved product for which we retain sales and marketing responsibilities, we must either develop a sales and marketing organization or outsource these functions to third parties.

There are risks involved with both establishing our own commercial capabilities and entering into arrangements with third parties to perform these services. For example, recruiting and training a sales force or reimbursement specialists is expensive and time consuming and could delay any product launch. If the commercial launch of a product candidate for which we recruit a sales force and establish marketing and other commercialization capabilities is delayed or does not occur for any reason, we would have prematurely or unnecessarily incurred these commercialization expenses. This may be costly, and our investment would be lost if we cannot retain or reposition our commercialization personnel.

If we enter into arrangements with third parties to perform sales, marketing, commercial support and distribution services, our product revenue or the profitability of product revenue may be lower than if we were to market and sell any products we may develop ourselves. In addition, we may not be successful in entering into arrangements with third parties to commercialize our product candidates or may be unable to do so on terms that are favorable to us. We may have little control over such third parties, and any of them may fail to devote the necessary resources and attention to sell and market our products effectively. If we do not establish commercialization capabilities successfully, either on our own or in collaboration with third parties, we will not be successful in commercializing our product candidates if approved and our business would be seriously harmed.

## **Risks Related to the Securities Market and Ownership of Our Common Stock**

***An active, liquid and orderly trading market may not be sustained for our common stock and as a result it may be difficult for you to sell your shares of our common stock.***

The trading market for our common stock on the Nasdaq Global Select Market has been limited and an active trading market for our shares may not be sustained. The lack of an active market may also reduce the fair market value of your shares of common stock. Furthermore, an inactive market may also impair our ability to raise capital by selling shares of

our common stock and may impair our ability to enter into strategic collaborations or acquire companies, technologies or other assets by using our shares of common stock as consideration.

***The price of our stock is volatile, and you could lose all or part of your investment.***

The trading price of our common stock is highly volatile and subject to wide fluctuations in response to various factors, some of which we cannot control. The stock market in general, and pharmaceutical and biotechnology companies in particular, have experienced extreme price and volume fluctuations that have often been unrelated or disproportionate to the operating performance of these companies. Broad market and industry factors may negatively affect the market price of our common stock, regardless of our actual operating performance. In addition to the factors discussed in this "Risk Factors" section and elsewhere in this periodic report, these factors include:

- the timing of achievement of our research, clinical, regulatory and other milestones for our product candidates;
- the results of preclinical studies and clinical trials of our product candidates, those conducted by third parties or those of our competitors;
- the success of competitive products or announcements by potential competitors of their product development efforts;
- regulatory actions with respect to our product candidates or those of our competitors;
- actual or anticipated changes in our growth rate relative to our competitors;
- regulatory or legal developments in the U.S. and other countries;
- litigation, including developments or disputes concerning patent applications, issued patents or other intellectual property or proprietary rights;
- the recruitment or departure of key personnel;
- announcements by us or our competitors of significant acquisitions, strategic collaborations, joint ventures, collaborations or capital commitments;
- actual or anticipated changes in estimates as to financial results, development timelines or coverage and/or recommendations by securities analysts;
- fluctuations in the valuation of companies perceived by investors to be comparable to us;
- market conditions in the pharmaceutical and biotechnology sector;
- changes in the structure of healthcare payment systems;
- share price and volume fluctuations attributable to inconsistent trading volume levels of our shares;
- announcement or expectation of additional financing efforts;
- sales of our common stock by us, our insiders or our other stockholders;
- expiration of market stand-off or lock-up agreements;
- the impact of any natural disasters or public health emergencies, such as the COVID-19 pandemic;
- fluctuations in interest rates and inflation rates; and
- general economic, political, industry and market conditions.

The realization of any of the above risks or any of a broad range of other risks, including those described in this "Risk Factors" section, could have a dramatic and adverse impact on the market price of our common stock.

***Our operating results may fluctuate significantly, which makes our future operating results difficult to predict and could cause our operating results to fall below expectations or our guidance.***

Our quarterly and annual operating results may fluctuate significantly in the future, which makes it difficult for us to predict our future operating results. From time to time, we may enter into license or collaboration agreements or strategic partnerships with other companies that include development funding and significant upfront and milestone payments and/or royalties, which may become an important source of our revenue. These upfront and milestone payments may vary significantly from period to period and any such variance could cause a significant fluctuation in our operating results from one period to the next.

In addition, we measure compensation cost for stock-based awards made to employees at the grant date of the award, based on the fair value of the award as determined by our board of directors, and recognize the cost as an expense over the employee's requisite service period. As the variables that we use as a basis for valuing these awards change over time, including, our underlying stock price and stock price volatility, the magnitude of the expense that we must recognize may vary significantly.

Furthermore, our operating results may fluctuate due to a variety of other factors, many of which are outside of our control and may be difficult to predict, including the following:

- the timing and cost of, and level of investment in, research and development activities relating to our programs, product candidates and any future programs and product candidates, which will change from time to time;
- the cost of operating a manufacturing facility and manufacturing our product candidates, which may vary depending on FDA, EMA or other comparable foreign regulatory authority guidelines and requirements, the quantity of production and the terms of our agreements with manufacturers;
- expenditures that we will or may incur to acquire or develop additional product candidates and technologies or other assets;
- the timing and outcomes of clinical trials for our product candidates, or competing product candidates;
- our ability to enroll patients in clinical trials and the timing of enrollment;
- the need to conduct unanticipated clinical trials or trials that are larger or more complex than anticipated;
- competition from existing and potential future products and changes in the competitive landscape of our industry, including consolidation among our competitors or partners;
- any delays in regulatory review or approval of our product candidates;
- our ability to establish and maintain collaborations, licensing or other arrangements;
- the level of demand for our product candidates, if approved, which may fluctuate significantly and be difficult to

predict;

- the risk/benefit profile, cost and reimbursement policies with respect to our product candidates, if approved, and existing and potential future products that compete with any of our product candidates;
- our ability to commercialize any of our product candidates, if approved, inside and outside of the U.S., either independently or working with third parties;
- our ability to adequately support future growth;
- potential unforeseen business disruptions that increase our costs or expenses;
- future accounting pronouncements or changes in our accounting policies; and
- the changing and volatile global economic and political environment.

The cumulative effect of these factors could result in large fluctuations and unpredictability in our quarterly and annual operating results. As a result, comparing our operating results on a period-to-period basis may not be meaningful. Investors should not rely on our past results as an indication of our future performance. This variability and unpredictability could also result in our failing to meet the expectations of industry or financial analysts or investors for any period. If our revenue or operating results fall below the expectations of analysts or investors or below any forecasts we may provide to the market, or if the forecasts we provide to the market are below the expectations of analysts or investors, the price of our common stock could decline substantially.

***Our principal stockholders and management own a significant percentage of our stock and will be able to exert significant control over matters subject to stockholder approval.***

As of **June 30, 2023** **September 30, 2023**, our executive officers, directors, holders of 5% or more of our capital stock and their respective affiliates beneficially owned approximately 57% of our common stock. These stockholders, acting together, may be able to control matters requiring stockholder approval. For example, they may be able to control elections of directors, amendments of our **organizational**

69

---

**organizational** documents or approval of any merger, sale of assets or other major corporate transactions. This concentration of ownership control may delay, discourage or prevent a change of control, including unsolicited acquisition proposals or offers for our common stock that you may feel are in your best interest as one of our stockholders, entrench our management and board of directors or delay or prevent a merger, consolidation, takeover or other business combination involving us that other stockholders may desire. The interests of this group of stockholders may not always coincide with your interests or the interests of other stockholders and they may act in a manner that advances their best interests and not necessarily those of other stockholders, including seeking a premium value for their common stock, and might affect the prevailing market price for our common stock.

***Sales of a substantial number of shares of our common stock in the public market could cause our stock price to fall.***

Sales of a substantial number of shares of our common stock in the public market could occur at any time. For example, we filed: (i) on August 10, 2022, a shelf registration statement on Form S-3 with the SEC that became effective on August 17, 2022 and allows us to undertake various equity and debt offerings up to \$300.0 million (the Shelf Registration); (ii) on August 17, 2022, a prospectus supplement to the shelf registration statement that covers the offering, issuance and sale of up to \$75.0 million of our common stock from time to time through an “at-the-market” program under the Securities Act, pursuant to which we have sold 535,767 shares as of June 30, 2023 September 30, 2023, resulting in proceeds of \$3.9 million, after deducting commissions of \$0.1 million pursuant to the Sales Agreement; and (iii) on November 17, 2022, a prospectus supplement to the Shelf Registration that covered the offering, issuance and sale of 25,429,716 shares of our common stock, at a public offering price of \$2.60 per share, and pre-funded warrants to purchase 6,236,693 shares of our common stock, at a public offering price of \$2.599 per pre-funded warrant, (the Follow-On Prospectus Supplement), pursuant to which we received aggregate net proceeds of \$76.9 million, after deducting the underwriting commissions and offering expenses. As of September 30, 2023 To date, 302,517 pre-funded warrants have been exercised.

Moreover, certain holders of our common stock have rights, subject to certain conditions, to require us to file registration statements covering their shares or to include their shares in registration statements that we may file for ourselves or other stockholders. Registration of these shares under the Securities Act of 1933, as amended (Securities Act), would result in the shares becoming freely tradeable in the public market, subject to the restrictions of Rule 144 in the case of our affiliates. If these shares are sold, or if it is perceived that they will be sold, in the public market, the trading price of our common stock could decline.

***We will incur costs as a result of operating as a public company, and our management will devote substantial time to related compliance initiatives. Additionally, if we fail to maintain proper and effective internal controls, our ability to produce accurate financial statements on a timely basis could be impaired.***

As a public company, we are subject to the reporting requirements of the Exchange Act, the Sarbanes-Oxley Act, the Dodd-Frank Wall Street Reform and Protection Act, as well as rules adopted, and to be adopted, by the SEC and the Nasdaq Stock Market LLC (Nasdaq). As a result of our initiatives to comply with such regulatory requirements, we incur significant legal, accounting and other expenses which may increase after we are no longer an “emerging growth company.” Moreover, our management and other personnel need to devote a substantial amount of time to these compliance initiatives.

In particular, as a public company we are required to comply with SEC rules that implement Section 404 of the Sarbanes-Oxley Act. Under these rules, we are required to make a formal assessment of the effectiveness of our internal control over financial reporting, and once we cease to be an emerging growth company, we will be required to include an attestation report on internal control over financial reporting issued by our independent registered public accounting firm, unless we continue to qualify as a “smaller reporting company” at such time. To achieve compliance with Section 404 within the prescribed periods, we engage in a process to document and evaluate our internal control over financial reporting, which is both costly and challenging. In this regard, we will need to continue to dedicate internal resources, potentially continue to engage outside consultants and adopt a detailed work plan to assess and document the adequacy of our internal control over financial reporting, continue steps to improve control processes as appropriate, validate

through testing that controls are designed and operating effectively, and implement a continuous reporting and improvement process for internal control over financial reporting.

The rules governing the standards that must be met for management to assess our internal control over financial reporting are complex and require significant documentation, testing and possible remediation to meet the detailed standards under the rules. During the course of its testing, our management may identify material weaknesses or deficiencies which may not be remedied in time to meet the deadlines imposed by the Sarbanes-Oxley Act.

Our internal control over financial reporting will not prevent or detect all errors and all fraud or prevent material weaknesses from being identified in such reporting. A control system, no matter how well designed and operated, can provide only reasonable, not absolute, assurance that the control system's objectives will be met. Because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that misstatements due to error or fraud will not occur or that all control issues and instances of fraud will be detected.

If we are not able to comply with the requirements of Section 404 of the Sarbanes-Oxley Act in a timely manner, or if we are unable to maintain proper and effective internal controls, we may not be able to produce timely and accurate financial statements. If

70

---

that were to happen, the market price of our stock could decline and we could be subject to sanctions or investigations by the stock exchange on which our common stock is listed, the SEC or other regulatory authorities.

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

The market price of our common stock may be volatile and, in the past, companies that have experienced volatility in the market price of their stock have been subject to securities class action litigation. This risk is especially relevant for us because biotechnology companies have experienced significant stock price volatility in recent years and we may be the target of this type of litigation in the future. Securities litigation against us could result in substantial costs and divert our management's attention from other business concerns, which could seriously harm our business.

***Provisions in our amended and restated certificate of incorporation and amended and restated bylaws and Delaware law might discourage, delay or prevent a change in control of our company or changes in our management and, therefore, depress the market price of our common stock.***

Our amended and restated certificate of incorporation and amended and restated bylaws contain provisions that could depress the market price of our common stock by acting to discourage, delay or prevent a change in control of our company or changes in our management that the stockholders of our company may deem advantageous. In addition, because our board of directors is responsible for appointing the members of our management team, these provisions may frustrate or prevent any attempts by our stockholders to replace or remove our current management by making it more difficult for stockholders to replace members of our board of directors. These provisions, among other things:

- establish a classified board of directors so that not all members of our board are elected at one time;
- permit only the board of directors to establish the number of directors and fill vacancies on the board;
- provide that directors may only be removed "for cause";
- authorize the issuance of "blank check" preferred stock that our board could use to implement a stockholder right plan (also known as a poison pill);
- eliminate the ability of our stockholders to call special meetings of stockholders;
- prohibit stockholder action by written consent, which requires all stockholder actions to be taken at a meeting of stockholders;
- prohibit cumulative voting;
- authorize our board of directors to amend the bylaws;
- establish advance notice requirements for nominations for election to our board or for proposing matters that can be acted upon by stockholders at annual stockholder meetings; and
- require a super-majority vote of stockholders to amend or repeal specified provisions of our amended and restated certificate of incorporation and amended and restated bylaws.

In addition, Section 203 of the General Corporation Law of the State of Delaware (DGCL), prohibits a publicly-held Delaware corporation from engaging in a business combination with an interested stockholder, generally a person which together with its affiliates owns, or within the last three years has owned, 15% of our voting stock, for a period of three years after the date of the transaction in which the person became an interested stockholder, unless the business combination is approved in a prescribed manner or certain other conditions are met.

Any provision of our amended and restated certificate of incorporation, amended and restated bylaws or Delaware law that has the effect of delaying or preventing a change in control could limit the opportunity for our stockholders to receive a premium for their shares of our capital stock and could also affect the price that some investors are willing to pay for our common stock.

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

Our amended and restated bylaws provide that the Court of Chancery of the State of Delaware (or, if the Court of Chancery does not have jurisdiction, another State court in Delaware or the federal district court for the District of Delaware) is the exclusive forum for the following (except for any claim as to which such court determines that there is an indispensable party not subject to the jurisdiction of such court (and the indispensable party does not consent to the personal jurisdiction of such court within 10 days

following such determination), which is vested in the exclusive jurisdiction of a court or forum other than such court or for which such court does not have subject matter jurisdiction):

- any derivative action or proceeding brought on our behalf;
- any action asserting a claim of breach of fiduciary duty;
- any action asserting a claim against us arising under the DGCL, our amended and restated certificate of incorporation or our amended and restated bylaws; and
- any action asserting a claim against us that is governed by the internal-affairs doctrine.

This provision would not apply to suits brought to enforce a duty or liability created by the Exchange Act or any other claim for which the U.S. federal courts have exclusive jurisdiction.

Our amended and restated bylaws further provide that the federal district courts of the United States of America will be the exclusive forum for resolving any complaint asserting a cause of action arising under the Securities Act.

These exclusive-forum provisions may limit a stockholder's ability to bring a claim in a judicial forum that it finds favorable for disputes with us or our directors, officers or other employees, which may discourage lawsuits against us and our directors, officers and other employees. In addition, these exclusive-forum provisions may impose additional litigation costs for stockholders who determine to pursue any such lawsuits against us.

Any person or entity purchasing or otherwise acquiring any interest in any of our securities shall be deemed to have notice of and consented to these provisions. There is uncertainty as to whether a court would enforce such provisions, and the enforceability of similar choice of forum provisions in other companies' charter documents has been challenged in legal proceedings. It is possible that a court could find these types of provisions to be inapplicable or unenforceable, and if a court were to find either exclusive-forum provision in our amended and restated bylaws to be inapplicable or unenforceable in an action, we may incur additional costs associated with resolving the dispute in other jurisdictions, which could seriously harm our business.

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

### **(a) Sales of Unregistered Securities**

None.

### **(b) Use of Proceeds from Public Offering of Common Stock**

On August 3, 2021, we completed our initial public offering (IPO) and issued an aggregate of 13,800,000 shares of our common stock (inclusive of 1,800,000 shares pursuant to the underwriters' overallotment option) at a price of \$15.00 per share. The gross proceeds from the offering for shares sold in our IPO was \$207.0 million. We received net proceeds from the IPO of \$188.5 million, after deducting underwriting discounts and commissions of approximately \$14.5 million and

offering expenses of approximately \$4.0 million. None of the expenses associated with the IPO were paid to directors, officers, persons owning 10% or more of any class of equity securities, or to their associates. Morgan Stanley & Co. LLC, Piper Sandler & Co. and Cowen and Company, LLC acted as book-running managers for the IPO. Shares of our common stock began trading on the Nasdaq Global Select Market on July 30, 2021. The offer and sale of the shares were registered under the Securities Act on a registration statement on Form S-1 (Registration No. 333-257820), which was declared effective on July 29, 2021. There has been no material change in the planned use of proceeds from our IPO as described in the registration statement on Form S-1.

**(c) Issuer Purchases of Equity Securities**

None.

**Item 3. Defaults Upon Senior Securities**

Not applicable.

**Item 4. Mine Safety Disclosures**

Not applicable.

**Item 5. Other Information**

None.

**Item 6. Exhibits**

Exhibit Number	Description	Form	File No.	Exhibit	Filing Date	Form	File No.	Exhibi t	Filing Date
3.1*	<a href="#">Composite</a> <a href="#">Amended and</a> <a href="#">Restated</a> <a href="#">Certificate of</a> <a href="#">Incorporation</a> <a href="#">of Tenaya</a> <a href="#">Therapeutics,</a> <a href="#">Inc., as</a> <a href="#">amended</a>								

3.1	<u>Composite Amended and Restated Certificate of Incorporation of Tenaya Thapeutics, Inc., as amended</u>	10-Q	001-40656	3.1	8-9-2023
3.2	<u>Amended and Restated Bylaws of Tenaya Thapeutics, Inc.</u>	8-K 40656	001- 2023	3.1	3-21-2023
10.1+	<u>Executive Change in Control and Severance Plan</u>	8-K 40656	001- 2023	10.1	6-12-
10.1*					<u>Outside Director Compensation Policy</u>

31.1*	<p><u>Certification of</u>  <u>Principal</u>  <u>Executive</u>  <u>Officer</u>  <u>Pursuant to</u>  <u>Rules 13a-</u>  <u>14(a) and 15d-</u>  <u>14(a) under</u>  <u>the Securities</u>  <u>Exchange Act</u>  <u>of 1934, as</u>  <u>Adopted</u>  <u>Pursuant to</u>  <u>Section 302 of</u>  <u>the Sarbanes-</u>  <u>Oxley Act of</u>  <u>2002.</u></p>		<p><u>Certification of</u>  <u>Principal</u>  <u>Executive</u>  <u>Officer</u>  <u>Pursuant to</u>  <u>Rules 13a-</u>  <u>14(a) and 15d-</u>  <u>14(a) under</u>  <u>the Securities</u>  <u>Exchange Act</u>  <u>of 1934, as</u>  <u>Adopted</u>  <u>Pursuant to</u>  <u>Section 302 of</u>  <u>the Sarbanes-</u>  <u>Oxley Act of</u>  <u>2002.</u></p>
31.2*	<p><u>Certification of</u>  <u>Principal</u>  <u>Financial</u>  <u>Officer</u>  <u>Pursuant to</u>  <u>Rules 13a-</u>  <u>14(a) and 15d-</u>  <u>14(a) under</u>  <u>the Securities</u>  <u>Exchange Act</u>  <u>of 1934, as</u>  <u>Adopted</u>  <u>Pursuant to</u>  <u>Section 302 of</u>  <u>the Sarbanes-</u>  <u>Oxley Act of</u>  <u>2002.</u></p>		<p><u>Certification of</u>  <u>Principal</u>  <u>Financial</u>  <u>Officer</u>  <u>Pursuant to</u>  <u>Rules 13a-</u>  <u>14(a) and 15d-</u>  <u>14(a) under</u>  <u>the Securities</u>  <u>Exchange Act</u>  <u>of 1934, as</u>  <u>Adopted</u>  <u>Pursuant to</u>  <u>Section 302 of</u>  <u>the Sarbanes-</u>  <u>Oxley Act of</u>  <u>2002.</u></p>

32.1†	<p><u>Certification of</u>  <u>Principal</u>  <u>Executive</u>  <u>Officer and</u>  <u>Principal</u>  <u>Financial</u>  <u>Officer</u>  <u>Pursuant to 18</u>  <u>U.S.C. Section</u>  <u>1350, as</u>  <u>Adopted</u>  <u>Pursuant to</u>  <u>Section 906 of</u>  <u>the Sarbanes-</u>  <u>Oxley Act of</u>  <u>2002.</u></p>	<p><u>Certification of</u>  <u>Principal</u>  <u>Executive</u>  <u>Officer and</u>  <u>Principal</u>  <u>Financial</u>  <u>Officer</u>  <u>Pursuant to 18</u>  <u>U.S.C. Section</u>  <u>1350, as</u>  <u>Adopted</u>  <u>Pursuant to</u>  <u>Section 906 of</u>  <u>the Sarbanes-</u>  <u>Oxley Act of</u>  <u>2002.</u></p>
101.INS *	<p>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.</p>	<p>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.</p>
101.SC H*	<p>Inline XBRL  Taxonomy  Extension  Schema  Document</p>	<p>Inline XBRL  Taxonomy  Extension  Schema  Document</p>

101.CAL	Inline XBRL * Taxonomy Extension Calculation Linkbase Document	Inline XBRL Taxonomy Extension Calculation Linkbase Document
101.DEF	Inline XBRL * Taxonomy Extension Definition Linkbase Document	Inline XBRL Taxonomy Extension Definition Linkbase Document
101.LAB	Inline XBRL * Taxonomy Extension Label Linkbase Document	Inline XBRL Taxonomy Extension Label Linkbase Document

101.PRE*	Inline XBRL Taxonomy Extension Presentation Linkbase Document
104*	Cover Page Interactive Data File (formatted as inline XBRL with applicable taxonomy extension information contained in Exhibits 101)

\* Filed herewith.

+ Management contract, compensatory plan or agreement.

† The certifications attached as Exhibit 32.1 that accompany this Quarterly Report on Form 10-Q are not deemed filed with the Securities and Exchange Commission and are not to be incorporated by reference into any filing of the Registrant under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, whether made before or after the date of this Quarterly Report on Form 10-Q, irrespective of any general incorporation language contained in such filing.

75

---

### SIGNATURES

Pursuant to the requirements 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.

Date: **August 9, 2023** **November 8, 2023** By: \_\_\_\_\_ /s/ Faraz Ali, M.B.A.  
Faraz Ali, M.B.A.  
Chief Executive Officer and Director  
(Principal Executive Officer)

Date: **August 9, 2023** **November 8, 2023** By: \_\_\_\_\_ /s/ Leone D. Patterson, M.B.A.  
Leone D. Patterson, M.B.A.  
Chief Financial and Business Officer  
(Principal Financial and Accounting Officer)

76

---

### Exhibit 3.1

#### **AMENDED AND RESTATED CERTIFICATE OF INCORPORATION OF 10.1 TENAYA THERAPEUTICS, INC.**

**a Delaware corporation** **OUTSIDE DIRECTOR COMPENSATION POLICY**  
**(as most recently amended September 14, 2023)**

Tenaya Therapeutics, Inc., a corporation organized and existing under the laws of the State of Delaware (the "Company"), does hereby certify as follows:

A. The original Certificate believes that the granting of Incorporation equity and cash compensation to members of the Company's Board of Directors (the "Board," and members of the Board, "Directors") represents an effective tool to attract, retain and reward Directors who are not employees of the Company was filed with the Secretary of State of the State of Delaware on August 18, 2016 ("Outside Directors").

B. This Amended and Restated Certificate of Incorporation was duly adopted in accordance with Sections 242 and 245 of the General Corporation Law of the State of Delaware Outside Director Compensation Policy (the "DGCL Policy") by the Board of Directors of the Company (the "Board of Directors") and has been duly approved by the written consent of the stockholders of the Company in accordance with Section 228 of the DGCL.

C. The text of the Amended and Restated Certificate of Incorporation is hereby amended and restated in its entirety intended to read as follows:

## ARTICLE I

The name of the Company is Tenaya Therapeutics, Inc.

## ARTICLE II

The address of formalize the Company's registered office policy regarding cash compensation and grants of equity awards to its Outside Directors. Unless otherwise defined herein, capitalized terms used in this Policy will have the meaning given such term in the State of Delaware is 1209 Orange Street, in the City of Wilmington, County of New Castle, Delaware 19801. The name of its registered agent at such address is The Corporation Trust Company.

## ARTICLE III

The nature of the business or purposes to be conducted or promoted by the Company is to engage in any lawful act or activity for which corporations may be organized under the DGCL.

## ARTICLE IV

Section 1. This Company is authorized to issue two classes of stock, to be designated, respectively, Common Stock and Preferred Stock. The total number of shares of stock that the Company shall have authority to issue is 1,200,000,000 shares, of which 1,000,000,000 shares are Common Stock, \$0.0001 par value per share, and 200,000,000 shares are Preferred Stock, \$0.0001 par value per share.

Section 2. Each share of Common Stock outstanding under Company's 2021 Equity Incentive Plan, as of the applicable record date shall entitle the holder thereof to one (1) vote on any matter submitted to a vote at a meeting of stockholders.

Section 3. The Preferred Stock may be issued amended from time to time, or if such plan no longer is in use at the time of the grant of an equity award, the meaning given such term or more series similar term in the equity plan then in place under which the equity award is granted (the "Plan"). Each Outside Director will be solely responsible for any tax obligations incurred by such Outside Director as a result of the equity awards and cash and other compensation such Outside Director receives under this Policy.

1. Effective Date; Restatement Date. This Policy originally became effective as of the effective date of the first registration statement that is filed by the Company and declared effective pursuant to a resolution or resolutions providing for such issue duly adopted by the Board of Directors (authority to do so being hereby expressly vested in the Board of Directors). The Board of Directors is further authorized, subject to limitations prescribed by law, to fix by resolution or resolutions the designations, powers, preferences and rights, and the qualifications, limitations or restrictions thereof, of any series of Preferred Stock, including, without limitation, authority to fix by resolution or resolutions the dividend rights,

---

dividend rate, conversion rights, voting rights, rights and terms of redemption (including sinking fund provisions), redemption price or prices, and liquidation preferences of any such series, and the number of shares constituting any such series and the designation thereof, or any Section 12(b) of the foregoing. The Board U.S. Securities Exchange Act of Directors is further authorized to increase (but not above the total number of authorized shares of the class) or decrease (but not below the number of shares of any such series then outstanding) the number of shares of any series, subject to the powers, preferences and rights, and the qualifications, limitations and restrictions thereof stated in this Amended and Restated Certificate of Incorporation or the resolution of the Board of Directors originally fixing the number of shares of such series. Except as may be otherwise specified by the terms of any series of Preferred Stock, if the number of shares of any series of Preferred Stock is so decreased, then the Company shall take all such steps as are necessary to cause the shares constituting such decrease to resume the status which they had prior to the adoption of the resolution originally fixing the number of shares of such series.

Section 4. Except as otherwise required by law or provided in this Amended and Restated Certificate of Incorporation, holders of Common Stock shall not be entitled to vote on any amendment to this Amended and Restated Certificate of Incorporation (including any certificate of designation filed amended, with respect to any series class of Preferred Stock) that relates

solely the Company's securities (such date, the "Effective Date"), was amended and restated on December 5, 2022 (the "Restatement Date") and was further amended on September 14, 2023.

## 2. Cash Compensation

2.1 Board Member Annual Cash Retainer. Each Outside Director will be paid an annual cash retainer of \$35,000. There are no per-meeting attendance fees for attending Board meetings or meetings of any committee of the Board.

2.2 Additional Annual Cash Retainers. As of the Effective Date, each Outside Director who serves as the Chair of the Board, or the chair or a member of a committee of the Board, will be eligible to earn additional annual fees as follows:

Non-Executive Chair of the Board:	\$30,000
Lead Independent Director:	\$20,000
Audit Committee Chair:	\$15,000
Audit Committee Member:	\$7,500
Compensation Committee Chair:	\$10,000
Compensation Committee Member:	\$5,000
Nominating and Corporate Governance Committee Chair:	\$8,000
Nominating and Corporate Governance Committee Member:	\$4,000
Science and Technology Committee Chair:	\$10,000
Science and Technology Committee Member:	\$5,000

For clarity, each Outside Director who serves as the chair of one or more outstanding series a committee will receive only the additional annual fee as the chair of Preferred Stock if the holders committee and not the additional annual fee as a member of such affected series are entitled, either separately or together committee while serving as such chair, provided, that the Outside Director who serves as the Chair of the Board will receive the annual fee for services provided in such role as well as the annual fee as an Outside Director.

2.3 Payment Timing and Proration. Each annual cash retainer (a "Annual Cash Retainer") under this Policy will be paid quarterly in arrears on a prorated basis to each Outside

Director who has served in the relevant capacity at any time during the immediately preceding fiscal quarter of the Company ("Fiscal Quarter"), and such payment will be made no later than thirty (30) days following the end of such immediately preceding Fiscal Quarter. For clarity, an Outside Director who has served as an Outside Director, as a class with member of an applicable committee (or chair thereof) during only a portion of the holders relevant Fiscal Quarter will receive a prorated payment of one or more other such series, to vote thereon by law or pursuant to this Amended and Restated Certificate the quarterly installment of Incorporation (including any certificate of designation filed with respect to any series of Preferred Stock).

Section 5. The number of authorized shares of Preferred Stock or Common Stock may be increased or decreased (but not below the applicable Annual Cash Retainer(s), calculated based on the number of shares thereof then outstanding) by days during such Fiscal Quarter such Outside Director has served in the affirmative vote relevant capacities. For clarity, an Outside Director who has served as an Outside Director or as a member of an applicable committee (or chair thereof) from the Effective Date through the end of the holders of Fiscal Quarter containing the Effective Date (the "Initial Period"), as applicable, will receive a majority prorated payment of the voting power of all the then-outstanding shares of capital stock quarterly installment of the Company entitled to vote thereon, without a separate vote of the holders of the class or classes applicable Annual Cash Retainer(s), calculated based on the number of authorized shares days during the Initial Period that such Outside Director has served in the relevant capacities.

3. Equity Compensation. Outside Directors will be eligible to receive all types of which are being increased or decreased, unless a vote Awards (except Incentive Stock Options) under the Plan, including discretionary Awards not covered under this Policy, subject to Section 5 hereof. All grants of any holders of one or more series of Preferred Stock is required Awards to Outside Directors pursuant to the terms of any certificate of designation relating to any series of Preferred Stock, irrespective of the provisions of Section 242(b)(2) of the DGCL.

## ARTICLE V

Section 1. Subject to the rights of holders of Preferred Stock, the number of directors that constitutes the entire Board of Directors of the Company shall be fixed only by resolution of the Board of Directors acting pursuant to a resolution adopted by a majority of the Whole Board. For the purposes Sections 3.2 and 3.3 of this Amended Policy will be automatic and Restated Certificate of Incorporation, the term "**Whole Board**" shall mean the total number of authorized directorships whether or not there exist any vacancies or other unfilled seats in previously authorized directorships. At each annual meeting of stockholders, directors of the Company shall nondiscretionary, except as otherwise provided herein, and will be elected to hold office until the expiration of the term for which they are elected and until their successors have been duly elected and qualified or until their earlier resignation or

removal; except that if any such meeting shall not be so held, such election shall take place at a stockholders' meeting called and held made in accordance with the DGCL following provisions:

Section 2.3.1 From No Discretion. No person will have any discretion to select which Outside Directors will be granted Annual Awards (as defined below) under this Policy or to determine the number of Shares to be covered by such Awards (except as provided in Sections 3.4.4 and after 10 below).

3.2 Initial Awards. Each individual who first becomes an Outside Director on or following the effectiveness of this Amended and Restated Certificate of Incorporation, the directors of the Company (other than any who may Restatement Date automatically will be elected by holders of Preferred Stock under specified circumstances) shall be divided into three classes granted an Option (an "Initial Award") to purchase Shares with a grant date fair value as nearly equal in size as is practicable, hereby designated Class I, Class II and Class III. Directors already in office shall be assigned to each class at the time such classification becomes effective determined in accordance with a resolution or resolutions adopted by U.S. generally accepted accounting principles (the "Grant Value") equal to \$320,000 (with any resulting fractional Share rounded down to the Board nearest whole Share), provided that, notwithstanding the foregoing, no more than 68,000 Shares may be subject to an Initial Award. The grant date of Directors. At the Initial Award will be the first annual meeting of stockholders following Trading Day on or after the date hereof, the term of office of the Class I directors shall expire and Class I directors shall be elected for a full term of three years. At the second annual meeting of stockholders following the date hereof, the term of office

2

---

of the Class II directors shall expire and Class II directors shall be elected for a full term of three years. At the third annual meeting of stockholders following the date hereof, the term of office of the Class III directors shall expire and Class III directors shall be elected for a full term of three years. At each succeeding annual meeting of stockholders, directors shall be elected for a full term of three years to succeed the directors of the class whose terms expire at such annual meeting. If the number of directors is changed, any newly created directorships or decrease in directorships shall be so apportioned hereafter among the classes as to make all classes as nearly equal in number as is practicable, provided that no decrease in the number of directors constituting the Board of Directors shall shorten the term of any incumbent director.

## ARTICLE VI

Section 1. From and after the effectiveness of this Amended and Restated Certificate of Incorporation, only for so long as the Board of Directors is classified and subject to the rights of holders

of Preferred Stock, any director or the entire Board of Directors may be removed from office at any time, but only for cause, and only by the affirmative vote of the holders of at least a majority of the voting power of the issued and outstanding capital stock of the Company entitled to vote in the election of directors.

Section 2.Except as otherwise provided for or fixed by or pursuant to the provisions of ARTICLE IV hereof in relation to the rights of the holders of Preferred Stock to elect directors under specified circumstances or except as otherwise provided by resolution of a majority of the Whole Board, newly created directorships resulting from any increase in the number of directors, created in accordance with the Bylaws of the Company, and any vacancies on the Board of Directors resulting from death, resignation, disqualification, removal or other cause shall be filled only by the affirmative vote of a majority of the remaining directors then in office, even though less than a quorum of the Board of Directors, or by a sole remaining director, and not by the stockholders. A person so elected by the Board of Directors to fill a vacancy or newly created directorship shall hold office until the next election of the class for which such director shall have been chosen until his or her successor shall have been duly elected and qualified, or until such director's earlier death, resignation or removal. No decrease in individual first becomes an Outside Director (such first date as an Outside Director, the number of directors constituting the Board of Directors shall shorten the term of any incumbent director.

## "ARTICLE VII Initial Start Date

Section 1.The Company is to have perpetual existence.

Section 2.The business and affairs of the Company shall be managed by or under the direction of the Board of Directors. In addition to the powers and authority expressly conferred upon them by statute or by this Amended and Restated Certificate of Incorporation or the Bylaws of the Company, the directors are hereby empowered to exercise all such powers and do all such acts and things as may be exercised or done by the Company.

Section 3.In furtherance and not in limitation of the powers conferred by statute, the Board of Directors is expressly authorized to adopt, alter, amend or repeal the Bylaws of the Company. The affirmative vote of at least a majority of the Whole Board shall be required in order for the Board of Directors to adopt, amend, alter or repeal the Company's Bylaws. The Company's Bylaws may also be adopted, amended, altered or repealed by the stockholders of the Company. Notwithstanding the above or any other provision of this Amended and Restated Certificate of Incorporation, the Bylaws of the Company may not be amended, altered or repealed except in accordance with the provisions of the Bylaws relating to amendments to the Bylaws. No Bylaw hereafter legally adopted, amended, altered or repealed shall invalidate any prior act of the directors or officers of the Company that would have been valid if such Bylaw had not been adopted, amended, altered or repealed.

Section 4.The"), whether through election of directors need not be by written ballot unless the Bylaws of the Company shall so provide.

Section 5.No stockholder will be permitted to cumulate votes at any election of directors.

## ARTICLE VIII

Section 1.From and after the closing of a firm commitment underwritten initial public offering of securities of the Company pursuant to an effective registration statement filed under the Securities Act of 1933, as amended, and subject to the rights of holders of Preferred Stock, any action required or permitted to be taken by the stockholders of the Company must be effected at or appointment by the Board to fill a duly called annual or special meeting of stockholders vacancy. If an individual was an Employee-Director, becoming an Outside Director due to termination of the Company and may individual's status as an Employee will not entitle the Outside Director to an Initial Award. Each Initial Award will be effected by any consent scheduled to vest as to one thirty-sixth (1/36th) of the Shares subject to the Initial Award on a monthly basis following

-2-

the Initial Award's grant date on the same day of the month as such grant date (or on the last day of the month, if there is no corresponding day in writing by such stockholders month), subject to the Outside Director remaining a Service Provider through the applicable vesting date.

Section 2.3.3Annual Award. On the first Trading Day immediately following each Annual Meeting of the Company's stockholders (an "Annual Meeting" and such first Trading Day immediately following the Annual Meeting, the "Annual Award Date") that occurs on or after the Restatement Date, (i) each Outside Director who, as of the date of such Annual Meeting (the "Current Meeting") has been in continuous service as an Outside Director since the date of the most recently preceding Annual Meeting (the "Prior Meeting"), automatically will be granted an Option (the "Annual Award") to purchase Shares with a Grant Value equal to \$160,000 (with any resulting fractional Share rounded down to the nearest whole Share), and (ii) each Outside Director who, as of the date of the Current Meeting, has not been in continuous service as an Outside Director since the Prior Meeting, automatically will be granted a prorated Annual Award having a Grant Value equal to the product of (A) \$160,000 multiplied by (B) a fraction, (x) the numerator of which is the number of full months (not to exceed 12) during which the individual served as an Outside Director between such individual's Initial Start Date and the date of the Current Meeting, and (y) the denominator of which is 12 (with any resulting fractional Share rounded down to the nearest whole Share). Notwithstanding the foregoing, no more than

34,000 Shares may be subject to an Annual Award. The Annual Award will be scheduled to vest in full upon the first anniversary of the date of grant or, if earlier, the day immediately before the date of the next Annual Meeting that occurs after the Annual Award's grant date, subject to the Outside Director remaining a Service Provider through the applicable vesting date. For the avoidance of doubt, for purposes of this Policy, a "full month" will have elapsed on each one-month anniversary of the Initial Start Date (e.g., if the Initial Start Date is September 15 of a given year, a full month will elapse on October 15 of such year and the next full month will elapse on November 15 of such year) or, if there is no monthly anniversary of the applicable date, on the last date of the applicable month (e.g., if the Initial Start Date is October 31 of a given year, a full month will elapse on November 30 of such year and the next full month will elapse on December 31 of such year).

**3.4 Additional Terms of Initial Awards and Annual Awards.** The terms and conditions of each Initial Award and Annual Award will be as follows.

**3.4.1** The term of each Initial Award and Annual Award will be ten (10) years, subject to earlier termination as provided in the Plan.

**3.4.2** The per Share exercise price of each Initial Award and Annual Award will be equal to one hundred percent (100%) of the Fair Market Value per Share on such Award's grant date.

**3.4.3** Each Initial Award and Annual Award will be granted under and subject to the terms of any series of Preferred Stock, special meetings of stockholders and conditions of the Plan and the applicable form of Award Agreement previously approved by the Board or its Committee, as applicable, for use thereunder.

**3.4.4** The Board or its Committee, as applicable and in its discretion, may change and otherwise revise the terms of Initial Awards and Annual Awards granted pursuant to this Policy, including without limitation the number of Shares subject thereto and type of Award.

-3-

**4. Change in Control.** In the event of a Change in Control, each Outside Director will fully vest in his or her outstanding Company equity awards as of immediately prior to the Change in Control, including any Initial Award and Annual Award, provided that the Outside Director continues to be an Outside Director through the date of such Change in Control.

**5. Annual Compensation Limit.** No Outside Director may be called only by granted, in any Fiscal Year, Awards with values (based on their grant date fair value determined in accordance

with U.S. generally accepted accounting principles), and be provided any other compensation (including without limitation any cash retainers or fees) in amounts that, in any Fiscal Year, in the Chairperson aggregate, exceed \$500,000. Any Awards or other compensation provided to an individual (a) for his or her services as an Employee, or for his or her services as a Consultant other than as an Outside Director, or (b) prior to the Registration Date, will be excluded for purposes of this Section 5.

**6. Travel Expenses.** Each Outside Director's reasonable, customary and properly documented travel expenses to meetings of the Board of Directors, the Chief Executive Officer, the President or the Board of Directors acting pursuant to a resolution adopted by a majority of the Whole Board, but a special meeting may not be called by any other person or persons and any power of stockholders to call a special meeting of stockholders is specifically denied. Only such business shall its committees, as applicable, will be considered at a special meeting of stockholders as shall have been stated reimbursed by the Company.

**7. Adjustments.** In the event that any dividend or other distribution (whether in the notice for such meeting.

Section 3. Advance notice form of stockholder nominations for the election cash, Shares, other securities or other property), recapitalization, stock split, reverse stock split, reorganization, merger, consolidation, split-up, spin-off, combination, reclassification, repurchase, or exchange of directors and of business to be brought by stockholders before any meeting of the stockholders of the Company shall be given in the manner and to the extent provided in the Bylaws of the Company.

## ARTICLE IX

Section 1. To the fullest extent permitted by the DGCL as the same exists Shares or as may hereafter be amended from time to time, a director of the Company shall not be personally liable to the Company or its stockholders for monetary damages for breach of fiduciary duty as a director. If the DGCL is amended to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the Company shall be eliminated or limited to the fullest extent permitted by the DGCL, as so amended.

Section 2. Subject to any provisions in the Bylaws of the Company related to indemnification of directors of the Company, the Company shall indemnify, to the fullest extent permitted by applicable law, any director of the Company who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (a "Proceeding") by reason of the fact that he or she is or was a director other securities of the Company, or is or was serving at other change in the request corporate structure of the Company affecting the Shares occurs (other than any ordinary dividends or other ordinary distributions), the Administrator, in order to

prevent diminution or enlargement of the benefits or potential benefits intended to be made available under this Policy, will adjust the number and class of the shares of stock issuable pursuant to Awards that may be granted pursuant to Section 3 of this Policy.

8. Section 409A. In no event will cash compensation or expense reimbursement payments under this Policy be paid after the later of (a) the fifteenth (15th) day of the third (3rd) month following the end of the Company's taxable year in which the compensation is earned or expenses are incurred, as applicable, or (b) the fifteenth (15th) day of the third (3rd) month following the end of the calendar year in which the compensation is earned or expenses are incurred, as applicable, in compliance with the "short-term deferral" exception under Section 409A. It is the intent of this Policy that this Policy and all payments hereunder be exempt from or otherwise comply with the requirements of Section 409A so that none of the compensation to be provided hereunder will be subject to the additional tax imposed under Section 409A, and any ambiguities or ambiguous terms herein will be interpreted to be so exempt or comply. In no event will the Company or any of its Parents or Subsidiaries have any responsibility, liability, or obligation to reimburse, indemnify, or hold harmless an Outside Director (or any other person) for any taxes imposed, or other costs incurred, as a director, officer, employee result of Section 409A.

9. Stockholder Approval. The initial adoption of this Policy was approved by the Company's stockholders prior to the Effective Date. Unless otherwise required by applicable law, following such approval, this Policy will not be subject to approval by the Company's stockholders, including, for clarity, as a result of or agent of another corporation, partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with any such Proceeding. The Company shall be required to indemnify a person in connection with a Proceeding (or part thereof) initiated by such person only if the Proceeding (or part thereof) was authorized by the Board of Directors.

Section 3. The Company shall have the power to indemnify, to the extent permitted by applicable law, any officer, employee or agent of the Company who was or is a party or is threatened to be made a party to any Proceeding by reason of the fact that he or she is or was a director, officer, employee or agent of the Company or is or was serving at the request of the Company as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, including service action taken with respect to employee benefit plans, against expenses (including attorneys' fees), judgments, fines and this Policy as contemplated in Section 10.

amounts paid in settlement actually and reasonably incurred by such person in connection with any such Proceeding.

Section 4. Neither any amendment nor repeal of any Section of this ARTICLE IX, nor the adoption of any provision of this Amended and Restated Certificate of Incorporation or the Bylaws of the Company inconsistent with this ARTICLE IX, shall eliminate or reduce the effect of this ARTICLE IX in respect of any matter occurring, or any Proceeding accruing or arising or that, but for this ARTICLE IX, would accrue or arise, prior to such amendment, repeal or adoption of an inconsistent provision.

## ARTICLE X

Meetings of stockholders may be held within or outside of the State of Delaware, as the Bylaws may provide. The books of the Company may be kept (subject to any provision of applicable law) outside of the State of Delaware at such place or places or in such manner or manners as may be designated from time to time by the Board of Directors or in the Bylaws of the Company.

## ARTICLE XI

The Company reserves the right to amend or repeal any provision contained in this Amended and Restated Certificate of Incorporation in the manner prescribed by the laws of the State of Delaware and all rights conferred upon stockholders are granted subject to this reservation; *provided, however,* that notwithstanding any other provision of this Amended and Restated Certificate of Incorporation or any provision of law that might otherwise permit a lesser vote, the Board of Directors acting pursuant to a resolution adopted by a majority of the Whole Board and the affirmative vote of 66 2/3% of the voting power of the then outstanding voting securities of the Company, voting together as a single class, shall be required for the amendment, repeal or modification of the provisions of Section 3 of ARTICLE IV, Section 2 of ARTICLE V, Section 1 of ARTICLE VI, Section 2 of ARTICLE VI, Section 5 of ARTICLE VII, Section 1 of ARTICLE VIII, Section 2 of ARTICLE VIII, Section 3 of ARTICLE VIII, or this ARTICLE XI of this Amended and Restated Certificate of Incorporation.-4-

5

---

IN WITNESS WHEREOF, Tenaya Therapeutics, Inc. has caused this Amended and Restated Certificate of Incorporation to be signed by the Chief Executive Officer

10. Revisions. The Board or any committee of the Company on Board that has been designated appropriate authority with respect to Outside Director compensation (or with respect to any applicable element or elements thereof, authority with respect to such element or elements) (the "Committee") may amend, alter, suspend or terminate this 3rd day Policy at any time and for any reason. Further, the Board may provide for cash, equity, or other

compensation to Outside Directors in addition to the compensation provided under this Policy. No amendment, alteration, suspension or termination of August, 2021.

By: /s/ Faraz Ali

Faraz Ali

Chief Executive Officer

6

**CERTIFICATE THIS POLICY WILL MATERIALLY IMPAIR THE RIGHTS OF AMENDMENT AN OUTSIDE DIRECTOR WITH RESPECT TO**

**THE AMENDED COMPENSATION THAT ALREADY HAS BEEN PAID OR AWARDED, UNLESS OTHERWISE MUTUALLY AGREED BETWEEN THE OUTSIDE DIRECTOR AND RESTATED**

**CERTIFICATE THE COMPANY. TERMINATION OF INCORPORATION**

**OF**

**TENAYA THERAPEUTICS, INC.**

Tenaya Therapeutics, Inc., a corporation organized and existing this Policy will not affect the Board's or the Committee's ability to exercise the powers granted to it with respect to Awards granted under the laws of the State of Delaware (the "**Corporation**"), hereby certifies as follows:

1. The name of the Corporation is Tenaya Therapeutics, Inc. The original Certificate of Incorporation of the Corporation was filed with the Secretary of State of the State ("SOS") of Delaware on August 18, 2016. The Corporation's most recent Amended and Restated Certificate of Incorporation was filed with the SOS on August 3, 2021 (the "**Restated Certificate**").
2. This Certificate of Amendment to the Restated Certificate (the "**Certificate of Amendment**") has been duly adopted in accordance with Section 242 of the Delaware General Corporation Law (the "**DGCL**") and amends the provisions of the Restated Certificate.
3. The terms and provisions of this Certificate of Amendment have been duly approved by written consent of the required number of shares of outstanding stock of the Corporation Plan pursuant to Subsection 228(a) this Policy before the date of such termination, including without limitation such applicable powers set forth in the DGCL and written notice pursuant to Subsection 228(e) of the DGCL has been or will be given to those stockholders whose written consent has not been obtained. Plan.
4. Section 1 of ARTICLE IX of the Restated Certificate is hereby amended and restated in its entirety to read as follows:

"Section 1. To the fullest extent permitted by the DGCL as the same exists or as may hereafter be amended from time to time, a director or officer of the Company shall not be personally liable to the Company or its stockholders for monetary damages for breach of fiduciary duty as a director or officer. If the DGCL is amended to authorize corporate action further eliminating or limiting the personal liability of directors or officers, then the liability of a director or officer of the Company shall be eliminated or limited to the fullest extent permitted by the DGCL, as so amended."

\* \* \*

---

**IN WITNESS WHEREOF**, Tenaya Therapeutics, Inc. has caused this Certificate of Amendment to be signed by its Chief Executive Officer on this 8<sup>th</sup> day of June, 2023.

**TENAYA THERAPEUTICS, INC.**

By: /s/ Faraz Ali

Faraz Ali

Chief Executive Officer

-5-

---

**Exhibit 31.1**

**CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER  
PURSUANT TO  
RULES 13a-14(a) AND 15d-14(a) UNDER THE SECURITIES EXCHANGE ACT OF 1934,  
AS ADOPTED PURSUANT TO  
SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Faraz Ali, M.B.A., certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Tenaya Therapeutics, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in

all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the period presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 9, 2023 November 8, 2023

TENAYA THERAPEUTICS, INC.

By: /s/ Faraz Ali, M.B.A.

Name: Faraz Ali, M.B.A.

**CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER  
PURSUANT TO  
RULES 13a-14(a) AND 15d-14(a) UNDER THE SECURITIES EXCHANGE ACT OF 1934,  
AS ADOPTED PURSUANT TO  
SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Leone D. Patterson, M.B.A., certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Tenaya Therapeutics, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the period presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has

materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 9, 2023 November 8, 2023

TENAYA THERAPEUTICS, INC.

By: /s/ Leone D. Patterson, M.B.A.

Name: Leone D. Patterson, M.B.A.

Title: Chief Financial and Business Officer

*(Principal Financial and Accounting Officer)*

---

**Exhibit 32.1**

**CERTIFICATIONS OF PRINCIPAL EXECUTIVE OFFICER AND PRINCIPAL FINANCIAL OFFICER  
PURSUANT TO  
18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

I, Faraz Ali, M.B.A., certify, pursuant to 18 U.S.C. Section 1350 as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, (1) the Quarterly Report on Form 10-Q of Tenaya Therapeutics, Inc. (the "Company") for the quarterly period ended June 30, 2023 September 30, 2023, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 and (2) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

*/s/ Faraz Ali, M.B.A.*

---

Faraz Ali, M.B.A.

Chief Executive Officer and Director

*(Principal Executive Officer)*

Date: August 9, 2023 November 8, 2023

I, Leone D. Patterson, M.B.A., certify, pursuant to 18 U.S.C. Section 1350 as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, (1) the Quarterly Report on Form 10-Q of Tenaya Therapeutics, Inc. (the "Company") for the quarterly period ended June 30, 2023 September 30, 2023, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 and (2) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ Leone D. Patterson, M.B.A.

---

Leone D. Patterson, M.B.A.

Chief Financial and Business Officer

*(Principal Financial and Accounting Officer)*

Date: August 9, 2023 November 8, 2023

---

