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

FORM 10-Q

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

For the quarterly period ended March 31, 2024

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: 001-39801

XOMA Corporation
(Exact name of Registrant as specified in its charter)

Delaware	**52-2154066**
(State or other jurisdiction of incorporation or organization)	**(I.R.S. Employer Identification No.)**
2200 Powell Street, Suite 310 Emeryville, California	**94608**
(Address of principal executive offices)	**(Zip Code)**

Registrant's telephone number, including area code: (510) 204-7200

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, $0.0075 par value	XOMA	The Nasdaq Global Market
8.625% Series A Cumulative Perpetual Preferred Stock, par value $0.05	XOMAP	The Nasdaq Global Market
Depositary Shares (each representing 1/1000th interest in a share of 8.375% Series B Cumulative Perpetual Preferred Stock, par value $0.05)	XOMAO	The Nasdaq Global 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	☐	Accelerated filer	☐
Non-accelerated filer	☒	Smaller reporting company	☒
		Emerging growth company	☐

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

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 May 6, 2024, the registrant had 11,638,553 shares of common stock, $0.0075 par value per share, outstanding.

XOMA CORPORATION

FORM 10-Q

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GLOSSARY OF TERMS AND ABBREVIATIONS

Abbreviations	Definition
2010 Plan	the Company's 2010 Long Term Incentive and Stock Award Plan, as amended
2018 Common Stock ATM Agreement	At The Market Issuance Sales Agreement with HCW dated December 18, 2018
2021 Series B Preferred Stock ATM Agreement	At The Market Issuance Sales Agreement with B. Riley dated August 5, 2021
AAA	Assignment and Assumption Agreement
ACA	The Patient Protection and Affordable Care Act of 2010, as amended by the Health Care and Education Reconciliation Act of 2010
Affimed	Affimed N.V.
Affitech	Affitech Research AS
Affitech CPPA	the Company's Commercial Payment Purchase Agreement with Affitech dated October 6, 2021
Agenus	Agenus, Inc. and certain affiliates
Agenus RPA	the Company's Royalty Purchase Agreement with Agenus dated September 20, 2018
Alora	Alora Pharmaceuticals, LLC
Anti-TGFβ Antibody License Agreement	the Company's License Agreement with Novartis dated September 30, 2015
April 2022 Letter Agreement	the Letter Agreement to Officer Employment Agreement dated August 7, 2017, between XOMA Corporation and Thomas Burns dated April 1, 2022
Aptevo	Aptevo Therapeutics Inc.
Aptevo CPPA	the Company’s Payment Interest Purchase Agreement with Aptevo dated March 29, 2023, referred to herein as “Aptevo Commercial Payment Purchase Agreement” or “Aptevo CPPA”
Aronora	Aronora, Inc.
Aronora RPA	the Company's Royalty Purchase Agreement with Aronora dated April 7, 2019
AstraZeneca	AstraZeneca plc
ASC	Accounting Standards Codification
ASC 310	ASC Topic 310, Receivables
ASC 326	ASC Topic 326, Financial Instruments – Credit Losses
ASC 450	ASC Topic 450, Contingencies
ASC 606	ASC Topic 606, Revenue from Contracts with Customers
ASC 805	ASC Topic 805, Business Combinations
ASC 815	ASC Topic 815, Derivatives and Hedging
ASC 842	ASC Topic 842, Leases
ASU	Accounting Standards Update
Bayer	Bayer Pharma AG
Bioasis	Bioasis Technologies, Inc. and certain affiliates
Bioasis RPA	the Company's Royalty Purchase Agreement with Bioasis dated February 25, 2019
Black-Scholes Model	Black-Scholes Option Pricing Model
Blue Owl	Blue Owl Capital Corporation
Blue Owl Loan	Loan pursuant to the Blue Owl Loan Agreement
Blue Owl Loan Agreement	Loan agreement dated as of December 15, 2023, between XRL, the lenders from time to time party thereto and Blue Owl, as administrative agent
Board	the Company’s Board of Directors
B. Riley	B. Riley Securities, Inc.
BVF	Biotechnology Value Fund, L.P.

Chiesi	Chiesi Farmaceutici S.p.A.
Company	XOMA Corporation, including its subsidiaries
CPPA	Commercial Payment Purchase Agreement
Daré	Daré Bioscience Inc.
Daré RPAs	the Company's Traditional RPA and Synthetic RPA with Daré dated April 29, 2024
Day One	Day One Biopharmaceuticals
DSUVIA®	sufentanil sublingual tablet (DZUVEO in European market)
DoD	U.S. Department of Defense
EMA	European Medicines Agency
ESPP	2015 Employee Stock Purchase Plan, as amended
EU	European Union
Exchange Act	U.S. Securities Exchange Act of 1934
FDA	U.S. Food and Drug Administration
FDIC	Federal Deposit Insurance Corporation
GAAP	Generally accepted accounting principles
G&A	General and administrative
Gevokizumab License Agreement	the Company's License Agreement with Novartis dated August 24, 2017
HCRP	Healthcare Royalty Partners II, L.P.
HCW	H.C. Wainwright & Co., LLC
ICE®	Innate cell engager
ImmunityBio	ImmunityBio, Inc. (formerly NantCell, Inc.)
ImmunityBio License Agreement	Out-license agreement to ImmunityBio from LadRx dated July 27, 2017, related to the development and commercialization of Aldoxorubicin, as amended on September 27, 2018
IP	Intellectual Property
Janssen	Janssen Biotech, Inc.
Kinnate	Kinnate Biopharma Inc.
Kuros	Kuros Biosciences AG, Kuros US LLC and Kuros Royalty Fund (US) LLC, collectively
Kuros RPA	the Company's Royalty Purchase Agreement with Kuros dated July 14, 2021
LadRx	LadRx Corporation (formerly CytRx Corporation)
LadRx Agreements	LadRx AAA and LadRx RPA
LadRx AAA	the Company’s Assignment and Assumption Agreement with LadRx dated June 21, 2023
LadRx RPA	the Company’s Royalty Purchase Agreement with LadRx dated June 21, 2023
Medexus	Medexus Pharmaceuticals, Inc.
Merck	Merck Sharp & Dohme Corp
Merck KGaA	Ares Trading SA
Merck KGaA License Agreement	In-license agreement from Merck KGaA to ObsEva related to ebopiprant dated June 10, 2015 and subsequently amended on July 8, 2016 (assumed by the Company as part of the ObsEva IP Acquisition Agreement)
NDA	New Drug Application
NOL	net operating loss
Novartis	Novartis Pharma AG, Novartis International Pharmaceutical Ltd., Novartis Institutes for Biomedical Research, Inc. and/or Novartis Vaccines and Diagnostics, Inc.
November 2022 Letter Agreement	November 1, 2022 amendment to the April 2022 Letter Agreement

ObsEva	ObsEva SA
ObsEva IP Acquisition Agreement	Company's IP Acquisition Agreement with ObsEva dated November 21, 2022
Ology Bioservices	Ology Bioservices Inc. (formerly Nanotherapeutics Inc., now a wholly owned subsidiary of National Resilience, Inc.)
Organon	Organon International GmbH
Organon License Agreement	Out-license agreement to Organon from ObsEva dated July 26, 2021, related to the development and commercialization of ebopiprant (assumed by the Company as part of the ObsEva IP Acquisition Agreement)
Palo	Palobiofarma, S.L.
Palo RPA	the Company's Royalty Purchase Agreement with Palo dated September 26, 2019
Pfizer	Pfizer, Inc.
PSU	Performance stock unit
R&D	Research and development
Regeneron	Regeneron Pharmaceuticals, Inc.
Amended Retention Plan	October 25, 2022 amendment to the Retention Plan
Retention Plan	Retention and Severance Plan dated March 31, 2022
Rezolute	Rezolute, Inc., formerly Antria Bio, Inc.
Rezolute License Agreement	the Company's License Agreement with Rezolute dated December 6, 2017, as amended in March 2018, January 2019 and March 2020
RPA	Royalty Purchase Agreement
Roche	F. Hoffmann-La Roche AG
SEC	U.S. Securities and Exchange Commission
Second Bioasis RPA	the Company's Royalty Purchase Agreement with Bioasis dated November 2, 2020
Series A Preferred Stock	the 8.625% Series A cumulative, perpetual preferred stock issued in December 2020
Series B Preferred Stock	the 8.375% Series B cumulative, perpetual preferred stock issued in April 2021
Series A and Series B Preferred Stock	Series A Preferred Stock and Series B Preferred Stock, collectively
Series B Depositary Shares	the depositary shares, each representing 1/1000th interest in a share of Series B Preferred Stock
Sonnet	Sonnet BioTherapeutics, Inc., formerly Oncobiologics, Inc.
Sonnet Collaboration Agreement	the Company's Collaboration Agreement with Sonnet dated July 23, 2012, as amended in May 2019
SVB	Silicon Valley Bank
Takeda	Takeda Pharmaceutical Company Limited
Takeda Collaboration Agreement	the Company's Collaboration Agreement with Takeda dated November 1, 2006, as amended in February 2007 and February 2009
Talphera	Talphera, Inc. (formerly AcelRx Pharmaceuticals, Inc. or “AcelRx”)
Talphera APA	Asset Purchase Agreement dated March 12, 2023 between AcelRx (now Talphera) and Vertical related to the sale of DSUVIA from Talphera to Vertical
Talphera CPPA	the Company’s Payment Interest Purchase Agreement with Talphera dated January 11, 2024, referred to herein as “Talphera Commercial Payment Purchase Agreement” or “Talphera CPPA”
Talphera Marketing Agreement	Marketing Agreement dated April 3, 2023 between AcelRx (now Talphera) and Vertical
TGFβ	transforming growth factor beta
U.S.	United States
VABYSMO®	faricimab-svoa

Vertical	Vertical Pharmaceuticals, LLC, a wholly-owned subsidiary of Alora
Viracta	Viracta Therapeutics, Inc.
Viracta RPA	the Company's Royalty Purchase Agreement with Viracta dated March 22, 2021, as amended March 4, 2024
XOMA	XOMA Corporation, a Delaware corporation, including subsidiaries
XRA	XRA 1 Corp.
XRL	XRL 1 LLC, a wholly-owned subsidiary of XOMA
Zevra	Zevra Therapeutics, Inc. (formerly KemPharm Denmark A/S)
Zevra APA	Asset Purchase Agreement dated May 13, 2011 between LadRx and Orphazyme ApS, and assigned to Zevra as of June 1, 2022, related to the sale of arimoclomol from LadRx to Zevra (assumed by the Company as part of LadRx AAA)

PART I - FINANCIAL INFORMATION

ITEM 1. CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

XOMA CORPORATION
CONDENSED CONSOLIDATED BALANCE SHEETS
(in thousands, except share and per share amounts)

	March 31, 2024	December 31, 2023[1]
ASSETS	(unaudited)	
Current assets:		
Cash and cash equivalents	$ 136,225	$ 153,290
Short-term restricted cash	160	160
Short-term equity securities	413	161
Trade and other receivables, net	3	1,004
Short-term royalty and commercial payment receivables	9,819	14,215
Prepaid expenses and other current assets	270	483
Total current assets	146,890	169,313
Long-term restricted cash	6,016	6,100
Property and equipment, net	40	25
Operating lease right-of-use assets	364	378
Long-term royalty and commercial payment receivables	65,577	57,952
Other assets - long term	533	533
Total assets	$ 219,420	$ 234,301
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	$ 1,515	$ 653
Accrued and other liabilities	1,299	2,768
Contingent consideration under RPAs, AAAs and CPPAs	3,000	7,000
Operating lease liabilities	55	54
Unearned revenue recognized under units-of-revenue method	2,159	2,113
Preferred stock dividend accrual	1,368	1,368
Current portion of long-term debt	6,144	5,543
Total current liabilities	15,540	19,499
Unearned revenue recognized under units-of-revenue method – long-term	6,692	7,228
Long-term operating lease liabilities	319	335
Long-term debt	114,528	118,518
Total liabilities	137,079	145,580
Commitments and Contingencies (Note 10)		
Stockholders' equity:		
Preferred Stock, $0.05 par value, 1,000,000 shares authorized:		
8.625% Series A cumulative, perpetual preferred stock, 984,000 shares issued and outstanding at March 31, 2024 and December 31, 2023	49	49
8.375% Series B cumulative, perpetual preferred stock, 1,600 shares issued and outstanding at March 31, 2024 and December 31, 2023	—	—
Convertible preferred stock, 5,003 shares issued and outstanding at March 31, 2024 and December 31, 2023	—	—
Common stock, $0.0075 par value, 277,333,332 shares authorized, 11,636,355 and 11,495,492 shares issued and outstanding at March 31, 2024 and December 31, 2023, respectively	87	86
Additional paid-in capital	1,314,036	1,311,809
Accumulated deficit	(1,231,831)	(1,223,223)
Total stockholders' equity	82,341	88,721
Total liabilities and stockholders' equity	$ 219,420	$ 234,301

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

[1]The condensed consolidated balance sheet as of December 31, 2023 has been derived from the audited consolidated financial statements as of that date included in the Company's Annual Report on Form 10-K for the year ended December 31, 2023.

XOMA CORPORATION
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS AND COMPREHENSIVE LOSS
(unaudited)
(in thousands, except per share amounts)

	Three Months Ended March 31,	
	2024	**2023**
Revenues:		
Revenue from contracts with customers	$ 1,000	$ —
Revenue recognized under units-of-revenue method	490	437
Total revenues	1,490	437
Operating expenses:		
Research and development	33	54
General and administrative	8,461	6,196
Arbitration settlement costs	—	4,132
Amortization of intangible assets	—	225
Total operating expenses	8,494	10,607
Loss from operations	(7,004)	(10,170)
Other income (expense):		
Interest expense	(3,551)	—
Other income (expense), net	1,960	357
Net loss and comprehensive loss	$ (8,595)	$ (9,813)
Less: accumulated dividends on Series A and Series B preferred stock	(1,368)	(1,368)
Net loss and comprehensive loss attributable to common stockholders, basic and diluted	$ (9,963)	$ (11,181)
Basic and diluted net loss per share attributable to common stockholders	$ (0.86)	$ (0.98)
Weighted average shares used in computing basic and diluted net loss per share attributable to common stockholders	11,580	11,460

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

XOMA CORPORATION
CONDENSED CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY
(unaudited)
(in thousands)

	Series A Preferred Stock		Series B Preferred Stock		Convertible Preferred Stock		Common Stock		Additional Paid-In Capital	Accumulated Deficit	Total Stockholders' Equity
	Shares	Amount	Shares	Amount	Shares	Amount	Shares	Amount			
Balance, December 31, 2023	984	$ 49	2	$ —	5	$ —	11,495	$ 86	$ 1,311,809	$ (1,223,223)	$ 88,721
Exercise of stock options	—	—	—	—	—	—	135	1	621	—	622
Issuance of common stock related to 401(k) contribution	—	—	—	—	—	—	7	—	118	—	118
Stock-based compensation expense	—	—	—	—	—	—	—	—	2,856	—	2,856
Preferred stock dividends	—	—	—	—	—	—	—	—	(1,368)	—	(1,368)
Repurchase of common stock	—	—	—	—	—	—	(1)	—	—	(13)	(13)
Net loss and comprehensive loss	—	—	—	—	—	—	—	—	—	(8,595)	(8,595)
Balance, March 31, 2024	984	$ 49	2	$ —	5	$ —	11,636	$ 87	$ 1,314,036	$ (1,231,831)	$ 82,341

	Series A Preferred Stock		Series B Preferred Stock		Convertible Preferred Stock		Common Stock		Additional Paid-In Capital	Accumulated Deficit	Total Stockholders' Equity
	Shares	Amount	Shares	Amount	Shares	Amount	Shares	Amount			
Balance, December 31, 2022	984	$ 49	2	$ —	5	$ —	11,454	$ 86	$ 1,306,271	(1,182,392)	$ 124,014
Issuance of common stock related to 401(k) contribution	—	—	—	—	—	—	7	—	123	—	123
Stock-based compensation expense	—	—	—	—	—	—	—	—	1,570	—	1,570
Preferred stock dividends	—	—	—	—	—	—	—	—	(1,368)	—	(1,368)
Net loss and comprehensive loss	—	—	—	—	—	—	—	—	—	(9,813)	(9,813)
Balance, March 31, 2023	984	$ 49	2	$ —	5	$ —	11,461	$ 86	$ 1,306,596	$ (1,192,205)	$ 114,526

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

XOMA CORPORATION
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(unaudited)
(in thousands)

	Three Months Ended March 31,	
	2024	2023
Cash flows from operating activities:		
Net loss	$ (8,595)	$ (9,813)
Adjustments to reconcile net loss to net cash used in operating activities:		
Stock-based compensation expense	2,856	1,570
Common stock contribution to 401(k)	118	123
Amortization of intangible assets	—	225
Depreciation	2	1
Accretion of long-term debt discount and debt issuance costs	306	—
Non-cash lease expense	14	47
Change in fair value of equity securities	(252)	24
Changes in assets and liabilities:		
Trade and other receivables, net	1,001	(5)
Prepaid expenses and other assets	213	269
Accounts payable and accrued liabilities	(105)	3,122
Operating lease liabilities	(15)	(50)
Unearned revenue recognized under units-of-revenue method	(490)	(437)
Net cash used in operating activities	(4,947)	(4,924)
Cash flows from investing activities:		
Payments of consideration under RPAs, AAAs and CPPAs	(15,000)	(9,600)
Receipts under RPAs, AAAs and CPPAs	7,771	2,366
Purchase of property and equipment	(17)	—
Net cash used in investing activities	(7,246)	(7,234)
Cash flows from financing activities:		
Principal payments – debt	(3,616)	—
Debt issuance costs and loan fees paid in connection with long-term debt	(581)	—
Payment of preferred stock dividends	(1,368)	(1,368)
Repurchases of common stock	(13)	—
Proceeds from exercise of options and other share-based compensation	1,956	—
Taxes paid related to net share settlement of equity awards	(1,334)	—
Net cash used in financing activities	(4,956)	(1,368)
Net decrease in cash, cash equivalents and restricted cash	(17,149)	(13,526)
Cash, cash equivalents and restricted cash at the beginning of the period	159,550	57,826
Cash, cash equivalents and restricted cash at the end of the period	$ 142,401	$ 44,300
Supplemental Cash Flow Information:		
Cash paid for interest	$ 3,780	$ —
Non-cash investing and financing activities:		
Accrual of contingent consideration under the Affitech CPPA	$ 3,000	$ —
Preferred stock dividend accrual	$ 1,368	$ 1,368

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

XOMA CORPORATION

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

(unaudited)

1. Description of Business

XOMA Corporation, a Delaware corporation, is a biotech royalty aggregator with a sizable portfolio of economic rights to future potential milestone and royalty payments associated with partnered commercial and pre-commercial therapeutic candidates. The Company's portfolio was built through the acquisition of rights to future milestone payments, royalties and commercial payments, since its royalty aggregator business model was implemented in 2017 combined with out-licensing its proprietary products and platforms from its legacy discovery and development business. The Company's drug royalty aggregator business is primarily focused on early to mid-stage clinical assets in Phase 1 and 2 with significant commercial sales potential that are licensed to large-cap partners. XOMA also acquires milestone and royalty revenue streams on late-stage or commercial assets that are designed to address unmet markets or have a therapeutic advantage, have long duration of market exclusivity, and are expected to generate royalty or milestone payments to the Company in a relatively short timeframe. The Company expects most of its future revenue to be based on milestone payments the Company may receive for milestones and royalties associated with these programs.

Liquidity and Financial Condition

The Company has incurred significant operating losses and negative cash flows from operations since its inception. As of March 31, 2024, the Company had cash, cash equivalents and restricted cash of $142.4 million primarily related to financing cash inflows received in December 2023 pursuant to the Blue Owl Loan Agreement (see Note 8).

As of March 31, 2024, the Company had cash and cash equivalents of $136.2 million and restricted cash of $6.2 million. As of March 31, 2024, $0.2 million of restricted cash was classified as current and $6.0 million was classified as non-current. The restricted cash balance may only be used to pay interest expense, administrative fees and other allowable expenses pursuant to the Blue Owl Loan.

Based on the Company's current cash balance and its planned spending, such as milestone and royalty acquisitions, the Company has evaluated and concluded its financial condition is sufficient to fund its planned operations and commitments and contractual obligations for a period of at least one year following the date that these condensed consolidated financial statements are issued.

2. Basis of Presentation and Significant Accounting Policies

Basis of Presentation

The condensed consolidated financial statements include the accounts of the Company and its wholly owned subsidiaries. All intercompany accounts and transactions among consolidated entities were eliminated upon consolidation. The unaudited condensed consolidated financial statements were prepared in accordance with U.S. GAAP for financial information and with the instructions to Form 10-Q and Article 10 of Regulation S-X for interim financial reporting. As permitted under those rules, certain footnotes or other financial information can be condensed or omitted. These condensed consolidated financial statements and related disclosures have been prepared with the assumption that users of the interim financial information have read or have access to the audited consolidated financial statements for the preceding fiscal year. Accordingly, these statements should be read in conjunction with the audited consolidated financial statements and related notes included in the Company's Annual Report on Form 10-K for the year ended December 31, 2023, filed with the SEC on March 8, 2024.

These condensed consolidated financial statements have been prepared on the same basis as the Company's annual consolidated financial statements and, in the opinion of management, reflect all adjustments, consisting only of normal and recurring adjustments that are necessary for a fair statement of the Company's consolidated financial

information. The interim results of operations are not necessarily indicative of the results that may be expected for the full year, or for any other future annual or interim period.

Use of Estimates

The preparation of financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amounts of assets, liabilities, revenue and expenses, and related disclosures. Management routinely evaluates its estimates including, but not limited to, those related to revenue recognition, revenue recognized under the units-of-revenue method, royalty and commercial payment receivables, legal contingencies, contingent consideration, amortization of the Blue Owl Loan, accrued expenses and stock-based compensation. The Company bases its estimates on historical experience and on various other market-specific and other relevant assumptions that are believed to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying values of assets and liabilities that are not readily apparent from other sources.

Actual results may differ significantly from these estimates, including estimates such as the Company's amortization of the payments received from HCRP. Under the contracts with HCRP, the amortization for the reporting period is calculated based on the payments expected to be made by the licensees to HCRP over the term of the arrangement. Any changes to the estimated payments by the licensees to HCRP can result in a material adjustment to revenue previously reported. In addition, the Company's amortization of the Blue Owl Loan is calculated based on the commercial payments expected to be received from Roche for VABYSMO under the Affitech CPPA. Any changes to the estimated commercial payments from Roche can result in a material adjustment to the interest expense and term loan balance reported.

Cash, Cash Equivalents and Restricted Cash

The following table provides a reconciliation of cash, cash equivalents and restricted cash reported within the condensed consolidated statements of cash flows (in thousands):

	March 31, 2024	December 31, 2023
Cash and cash equivalents	$ 136,225	$ 153,290
Restricted cash	6,176	6,260
Total cash, cash equivalents and restricted cash	$ 142,401	$ 159,550

Cash consists of bank deposits held in business checking and interest-bearing deposit accounts. Cash equivalent balances are defined as highly liquid financial instruments that are both readily convertible to known amounts of cash and so near their maturity that they present insignificant risk of changes in value because of changes in interest rates. Cash equivalents held by the Company are generally in money market funds.

Cash and Cash Equivalents

As of March 31, 2024, the Company had a cash balance of $1.5 million and a cash equivalent balance of $134.7 million. As of December 31, 2023, the Company had a cash balance of $124.9 million and a cash equivalent balance of $28.4 million.

Restricted Cash

Cash accounts with any type of restriction are classified as restricted cash. If restrictions are expected to be lifted or to be used to pay a third party in the next twelve months, the restricted cash account is classified as current.

On December 15, 2023, XRL deposited $6.3 million into reserve accounts in connection with the funding of the Blue Owl Loan (see Note 8), of which $5.8 million was deposited into a reserve account for interest and administrative fees and $0.5 million was deposited into an operating reserve account to cover operating expenses of XRL.

Payments of interest under the Blue Owl Loan Agreement are made semi-annually using commercial payments received since the immediately preceding interest payment date under the Affitech CPPA. On each interest payment date, if the commercial payments received are less than the total interest due for the respective quarter, XRL is expected to cover the shortfall in interest payment due from the reserve account.

Payments of administrative fees under the Blue Owl Loan Agreement are made semi-annually on January 1 and July 1 of each year from the reserve account. XOMA will be required to fund an additional $0.8 million into the administrative fee escrow account on July 1, 2027.

As of March 31, 2024, the Company had a short-term restricted cash balance of $0.2 million and a long-term restricted cash balance of $6.0 million on its condensed consolidated balance sheet. As of December 31, 2023, the Company had a short-term restricted cash balance of $0.2 million and a long-term restricted cash balance of $6.1 million on its consolidated balance sheet.

Revenue Recognition

The Company recognizes revenue from all contracts with customers according to ASC 606, except for contracts that are within the scope of other standards, such as leases and financial instruments. The Company recognizes revenue when its customer obtains control of promised goods or services, in an amount that reflects the consideration which the Company expects to receive in exchange for those goods or services.

To determine revenue recognition for arrangements that the Company determines are within the scope of ASC 606, the Company performs the following five steps: (i) identify the contract(s) with a customer; (ii) identify the performance obligations in the contract; (iii) determine the transaction price; (iv) allocate the transaction price to the performance obligations in the contract; and (v) recognize revenue when (or as) the Company satisfies a performance obligation. The Company only applies the five-step model to contracts when it is probable that the Company will collect the consideration it is entitled to in exchange for the goods or services it transfers to the customer. At contract inception, once the contract is determined to be within the scope of ASC 606, the Company assesses the goods or services promised within each contract on whether each promised good or service is distinct to determine those that are performance obligations. The Company then recognizes as revenue the amount of the transaction price that is allocated to the respective performance obligation based on relative fair values, when (or as) the performance obligation is satisfied.

The Company recognizes revenue from its license and collaboration arrangements and royalties. The terms of the arrangements generally include payment to the Company of one or more of the following: non-refundable, upfront license fees, development, regulatory and commercial milestone payments, and royalties on net sales of licensed products.

License of Intellectual Property

If the license to the Company's intellectual property is determined to be distinct from the other performance obligations identified in the arrangement, the Company recognizes revenue from non-refundable, upfront fees allocated to the license when the license is transferred to the customer and the customer is able to use and benefit from the license. For licenses that are bundled with other promises, such as transfer of related materials, process and know-how, the Company utilizes judgement to assess the nature of the combined performance obligation to determine whether the combined performance obligation is satisfied over time or at a point in time. Under the Company's license agreements, the nature of the combined performance obligation is the granting of licenses to the customers as the other promises are not separately identifiable in the context of the arrangement. Since the Company grants the license to a customer as it exists at the point of transfer and is not involved in any future development or commercialization of the products related to the license, the nature of the license is a right to use the Company's intellectual property as transferred. As such, the Company recognizes revenue related to the combined performance obligation upon completion of the delivery of the related materials, process and know-how (i.e., at a point in time).

Milestone Payments

At the inception of each arrangement that includes development and regulatory milestone payments, the Company evaluates whether the milestones are considered probable of being reached and estimates the amount to be included in the transaction price. ASC 606 suggests two alternatives to use when estimating the amount of variable consideration: the expected value method and the most likely amount method. Under the expected value method, an entity considers the sum of probability-weighted amounts in a range of possible consideration amounts. Under the most likely amount method, an entity considers the single most likely amount in a range of possible consideration amounts. The Company uses the most likely amount method for development and regulatory milestone payments.

If it is probable that a significant cumulative revenue reversal would not occur, the associated milestone value is included in the transaction price. Milestone payments that are not within the control of the Company or the licensee, such as regulatory approvals, are not considered probable of being achieved until those approvals are received. The transaction price is then allocated to each performance obligation on a relative stand-alone selling price basis. The Company recognizes revenue as or when the performance obligations under the contract are satisfied. At the end of each subsequent reporting period, the Company re-evaluates the probability or achievement of each such milestone and any related constraint, and if necessary, adjusts its estimates of the overall transaction price. Any such adjustments are recorded on a cumulative catch-up basis, which would affect revenue and earnings in the period of adjustment.

Royalties

For arrangements that include sales-based royalties, including milestone payments based on the level of sales, and the license is deemed to be the predominant item to which the royalties relate, the Company recognizes revenue at the later of (i) when the related sales occur, or (ii) when the performance obligation to which some or all of the royalty has been allocated has been satisfied (or partially satisfied).

Upfront payments and fees are recorded as deferred revenue upon receipt or when due and may require deferral of revenue recognition to a future period until the Company performs its obligations under these arrangements. Amounts payable to the Company are recorded as accounts receivable when the Company's right to consideration is unconditional. The Company does not assess whether a contract has a significant financing component if the expectation at contract inception is such that the period between payment by the customer and the transfer of the promised goods or services to the customer will be one year or less.

Sale of Future Revenue Streams

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

Estimating the total payments expected to be received by the purchaser over the term of such arrangements requires management to use subjective estimates and assumptions. Changes to the Company's estimate of the payments expected to be made to the purchaser over the term of such arrangements could have a material effect on the amount of revenues recognized in any particular period.

Stock-Based Compensation

The Company recognizes compensation expense for all stock-based payment awards made to the Company's employees, consultants and directors that are expected to vest based on estimated fair values. The valuation of stock option awards is determined at the date of grant using the Black-Scholes Model. The Black-Scholes Model requires inputs such

as the expected term of the option, expected volatility and risk-free interest rate. To establish an estimate of the expected term, the Company considers the vesting period and contractual period of the award and its historical experience of stock option exercises, post-vesting cancellations and volatility. The estimate of expected volatility is based on the Company's historical volatility. The risk-free rate is based on the yield available on U.S. Treasury zero-coupon issues corresponding to the expected term of the award. The Company records forfeitures when they occur. The Company records compensation expense for service-based awards on a straight-line basis over the requisite service period, which is generally the vesting period of the award, or to the date on which retirement eligibility is achieved, if shorter.

The grant date fair value of PSUs with market conditions is determined using the Monte Carlo valuation model. The Company records compensation expenses for PSUs based on graded expense attribution over the requisite service periods.

Equity Securities

The Company entered into a license agreement with Rezolute in December 2017, in which it received shares of common stock from Rezolute (see Note 4). Equity investments in Rezolute are classified in the condensed consolidated balance sheets as equity securities. The equity securities are measured at fair value, with changes in fair value recorded in the other income (expense), net line item of the condensed consolidated statement of operations and comprehensive loss at each reporting period. The Company remeasures its equity investments at each reporting period until such time that the investment is sold or disposed of. If the Company sells an investment, any realized gains and losses on the sale of the securities will be recognized in the condensed consolidated statement of operations and comprehensive loss in the period of sale.

Purchase of Rights to Future Milestones, Royalties and Commercial Payments

The Company has purchased rights to receive a portion of certain future developmental, regulatory and commercial sales milestones, royalties and option fees on sales of products currently in clinical development or recently commercialized. The Company acquired such rights from various entities and recorded the amount paid for these rights as long-term royalty receivables (see Note 5). In addition, the Company may be obligated to make contingent payments related to certain product development milestones, fees upon exercise of options related to future license products and sales-based milestones. The contingent payments are evaluated to determine if they are freestanding instruments or embedded derivatives. If the contingent payments fall within the scope of ASC 815, the contingent payments are measured at fair value at the inception of the arrangement, and are subject to remeasurement to fair value each reporting period. Any changes in the estimated fair value are recorded in the condensed consolidated statements of operations and comprehensive loss. Contingent consideration payments that do not fall within the scope of ASC 815 are recognized when the amounts are probable and estimable according to ASC 450.

The Company accounts for milestone and royalty rights related to developmental pipeline or recently commercialized products on a non-accrual basis using the cost recovery method. Developmental pipeline products are non-commercialized, non-approved products that require FDA or other regulatory approval, and thus have uncertain cash flows. Recently commercialized products do not have an established reliable sales pattern, and thus have uncertain cash flows. The Company is not yet able to reliably forecast future cash flows given their stages of development and commercialization. The related receivable balance is classified as noncurrent or current based on whether payments are probable and reasonably estimable to be received in the near term. Under the cost recovery method, any milestone or royalty payment received is recorded as a direct reduction of the recorded receivable balance. When the recorded receivable balance has been fully collected, any additional amounts collected are recognized as revenue.

Allowance for Current Expected Credit Losses

The Company evaluates the long-term royalty and commercial payment receivables on a collective (i.e., pool) basis if they share similar risk characteristics. The Company evaluates a royalty and commercial payment receivable individually if its risk characteristics are not similar to other royalty and commercial payment receivables. The Company reviews public information on clinical trials, press releases and updates from its partners regularly to identify any impairment indicators or changes in expected recoverability of the long-term royalty and commercial payment receivable

asset. At each reporting date, if the Company determines expected future cash flows discounted to the current period are less than the carrying value of the asset, the Company will record an impairment charge. The impairment charge will be recognized as an allowance expense that increases the long-term royalty and commercial payment receivable asset's cumulative allowance, which reduces the net carrying value of the long-term royalty and commercial payment receivable asset. In a subsequent period, if there is an increase in expected future cash flows, or if the actual cash flows are greater than previously expected, the Company will reduce the previously established cumulative allowance. Amounts not expected to be collected are written off against the allowance at the time that such a determination is made.

Asset Acquisitions

As a first step, for each acquisition, the Company determines if it is an acquisition of a business or an asset acquisition under ASC 805. Acquisitions of assets or a group of assets that do not meet the definition of a business are accounted for as asset acquisitions under ASC 805-50, using the cost accumulation method, whereby the cost of the acquisition, including certain transaction costs, is allocated to the assets acquired on the basis of relative fair values (see Note 4).

Contingent payments are evaluated whether they are freestanding instruments or embedded derivatives. If the contingent payments fall within the scope of ASC 815, the contingent payments are measured at fair value at the acquisition date, and are subject to remeasurement to fair value each reporting period. The estimated fair value at the acquisition date is included in the cost of the acquired assets. Any subsequent changes in the estimated fair value are recorded in the condensed consolidated statements of operations and comprehensive loss. Contingent consideration payments that do not fall within the scope of ASC 815 are recognized when the amount is probable and estimable according to ASC 450.

Cash payments related to acquired assets are reflected as an investing cash flow in the Company's condensed consolidated statements of cash flows.

Leases

The Company leases its headquarters in Emeryville, California. The Company determines the initial classification and measurement of its right-of-use assets and lease liabilities at the lease commencement date and thereafter if modified. The lease term includes any renewal options and termination options that the Company is reasonably certain to exercise. The present value of lease payments is determined by using the interest rate implicit in the lease, if that rate is readily determinable; otherwise, the Company uses its incremental borrowing rate. The incremental borrowing rate is determined by using the rate of interest that the Company would pay to borrow on a collateralized basis an amount equal to the lease payments for a similar term and in a similar economic environment. The Company estimated its incremental borrowing rate by adjusting the interest rate on its fully collateralized debt for the lease term length.

Rent expense for the operating lease is recognized on a straight-line basis, over the reasonably assured lease term based on total lease payments and is included in operating expenses in the condensed consolidated statements of operations and comprehensive loss.

The Company has elected the practical expedient to not separate lease and non-lease components. The Company's non-lease components are primarily related to property maintenance, which varies based on future outcomes, and thus are recognized in rent expense when incurred.

The Company has also elected not to record on the consolidated balance sheets a lease for which the term is 12 months or less and does not include a purchase option that the Company is reasonably certain to exercise.

Long-Term Debt

Long-term debt represents the Company's term loan under the Blue Owl Loan Agreement, which the Company has accounted for as a debt financing arrangement. Interest expense is accrued using the effective interest rate method over the estimated period the loan will be repaid. The allocated debt discount and debt issuance costs have been recorded as a direct deduction from the carrying amount of the related debt in the consolidated balance sheets and are being amortized

and recorded as interest expense throughout the expected life of the Blue Owl Loan using the effective interest rate method. The Company considered whether there were any embedded features in the Blue Owl Loan Agreement that require bifurcation and separate accounting as derivative financial instruments pursuant to ASC 815. See Note 8.

Warrants

The Company has issued warrants to purchase shares of its common stock in connection with its financing activities. The Company classifies these warrants as equity and recorded the warrants at fair value as of the date of issuance on the Company's consolidated balance sheet with no subsequent remeasurement. The issuance date fair value of the outstanding warrants was estimated using the Black-Scholes Model. The Black-Scholes Model required inputs such as the expected term of the warrants, expected volatility and risk-free interest rate. These inputs were subjective and required significant analysis and judgment. For the estimate of the expected term, the Company used the full remaining contractual term of the warrant. The estimate of expected volatility assumption is based on the historical price volatility observed on the Company's common stock. The risk-free rate is based on the yield available on U.S. Treasury zero-coupon issues corresponding to the expected term of the warrants.

Income Taxes

The Company accounts for income taxes using the liability method under which deferred tax assets and liabilities are determined based on differences between financial reporting and tax bases of assets and liabilities and are measured using the enacted tax rates and laws that are expected to be in effect when the differences are expected to reverse. Valuation allowances are established when necessary to reduce deferred tax assets to the amount which is more likely than not to be realizable.

The recognition, derecognition and measurement of a tax position is based on management's best judgment given the facts, circumstances and information available at each reporting date. The Company's policy is to recognize interest and penalties related to the underpayment of income taxes as a component of income tax expense. To date, there have been no interest or penalties charged in relation to the unrecognized tax benefits.

Net Loss per Share Attributable to Common Stockholders

The Company calculates basic and diluted loss per share attributable to common stockholders using the two-class method. The Company's convertible Series X Preferred Stock participate in any dividends declared by the Company on its common stock and are therefore considered to be participating securities. The Company's Series A and Series B Preferred Stock do not participate in any dividends or distribution by the Company on its common stock and are therefore not considered to be participating securities.

Under the two-class method, net income, as adjusted for any accumulated dividends on Series A and Series B Preferred Stock for the period, is allocated to each class of common stock and participating security as if all of the net income for the period had been distributed. Undistributed earnings allocated to participating securities are subtracted from net income in determining net income attributable to common stockholders. During periods of loss, the Company allocates no loss to participating securities because they have no contractual obligation to share in the losses of the Company. Basic net loss per share attributable to common stockholders is then calculated by dividing the net loss attributable to common stockholders by the weighted average number of shares of common stock outstanding during the period. All participating securities are excluded from the basic weighted average common shares outstanding.

Diluted net loss per share attributable to common stockholders is based on the weighted average number of shares outstanding during the period, adjusted to include the assumed exercise of certain stock options and warrants for common stock using the treasury method, if dilutive. The calculation assumes that any proceeds that could be obtained upon exercise of options and warrants would be used to purchase common stock at the average market price during the period. Adjustments to the denominator are required to reflect the related dilutive shares. The Company's Series A and Series B Preferred Stock become convertible upon the occurrence of specific events other than a change in the Company's share price and, therefore, are not included in the diluted shares until the contingency is resolved.

Share Repurchases

The Company has a stock repurchase program that is executed through purchases made from time to time, including in the open market. The Company retires repurchased shares of common stock, reducing common stock with any excess of cost over par value recorded to accumulated deficit. Issued and outstanding shares of common stock are reduced by the number of shares repurchased. No treasury stock is recognized in the condensed consolidated financial statements. In August 2022, the Inflation Reduction Act (IRA) enacted a 1% excise tax on net share repurchases after December 31, 2022. Any excise tax incurred on share repurchases is recognized as part of the cost basis of the shares acquired.

Concentration of Risk

Cash, cash equivalents, restricted cash and receivables are financial instruments which potentially subject the Company to concentrations of credit risk, as well as liquidity risk.

The Company maintains cash balances at commercial banks. Balances commonly exceed the amount insured by the FDIC. The Company has not experienced any losses in such accounts.

The Company monitors the creditworthiness of its customers to which it grants credit terms in the normal course of business but does not generally require collateral on receivables.

For the three months ended March 31, 2024, two partners represented 67% and 33% of total revenues. For the three months ended March 31, 2023, one partner represented 100% of total revenues. There were no trade receivables, net as of March 31, 2024. One partner represented 100% of the trade receivables, net as of December 31, 2023.

Comprehensive (Loss) Income

Comprehensive (loss) income is comprised of two components: net (loss) income and other comprehensive (loss) income. Other comprehensive (loss) income refers to gains and losses that under U.S. GAAP are recorded as an element of stockholders' equity but are excluded from net (loss) income. The Company did not record any transactions within other comprehensive (loss) income in the periods presented and, therefore, the net (loss) income and comprehensive (loss) income were the same for all periods presented.

Accounting Pronouncements Recently Adopted

In November 2023, the FASB issued ASU 2023-07, Segment Reporting, which expands annual and interim disclosure requirements for reportable segments, primarily through enhanced disclosures about significant segment expenses. The amendments in ASU 2023-07 are effective for all public entities for fiscal years beginning after December 15, 2023 and interim periods within fiscal years beginning after December 15, 2024. Early adoption is permitted. The Company adopted annual requirements under ASU 2023-07 on January 1, 2024 and plans to adopt interim requirements under ASU 2023-07 on January 1, 2025. The Company will begin including financial statement disclosures in accordance with ASU 2023-07 in the Company's Annual Report on Form 10-K for the year ended December 31, 2024.

Recent Accounting Pronouncements Not Yet Adopted

In October 2023, the FASB issued ASU 2023-06, Disclosure Improvements: Codification Amendments in Response to the Securities and Exchange Commission's Disclosure Update and Simplification Initiative. ASU 2023-06 incorporates 14 of the 27 disclosure requirements published in SEC Release No. 33-10532: Disclosure Update and Simplification into various topics within the ASC. ASU 2023-06's amendments represent clarifications to, or technical corrections of, current requirements. For SEC registrants, the effective date for each amendment will be the date on which the SEC removes that related disclosure from its rules. Early adoption is prohibited. The Company does not expect the standard to have a material impact on its consolidated financial statements and disclosures.

In December 2023, the FASB issued ASU 2023-09, Income Taxes (Topic 740): Improvements to Income Tax Disclosures, which includes amendments that further enhance income tax disclosures, primarily through standardization and disaggregation of rate reconciliation categories and income taxes paid by jurisdiction. The amendments are effective for all public entities for fiscal years beginning after December 15, 2024. Early adoption is permitted and should be applied either prospectively or retrospectively. The Company plans to adopt ASU 2023-09 and related updates on January 1, 2025. The Company is currently evaluating the impact that the updated standard will have on its financial statement disclosures.

3. Condensed Consolidated Financial Statements Details

Equity Securities

As of March 31, 2024 and December 31, 2023, equity securities consisted of an investment in Rezolute's common stock of $0.4 million and $0.2 million, respectively (see Note 4). For the three months ended March 31, 2024 and 2023, the Company recognized a gain of $0.3 million and a loss of $24,000, respectively, due to the change in fair value of its investment in Rezolute's common stock in the other income (expense), net line item of its condensed consolidated statements of operations and comprehensive loss.

Accrued and Other Liabilities

Accrued and other liabilities consisted of the following (in thousands):

	March 31, 2024	December 31, 2023
Accrued incentive compensation	$ 397	$ 1,203
Accrued legal and accounting fees	674	791
Accrued payroll, severance and retention costs	128	149
Other accrued liabilities	100	625
Total	$ 1,299	$ 2,768

Net Loss Per Share Attributable to Common Stockholders

The following is a reconciliation of the numerator (net loss) and the denominator (number of shares) used in the calculation of basic and diluted net loss per share attributable to common stockholders (in thousands, except per share amounts):

	Three Months Ended March 31,	
	2024	2023
Numerator		
Net loss	$ (8,595)	$ (9,813)
Less: Series A accumulated dividends	(530)	(530)
Less: Series B accumulated dividends	(838)	(838)
Net loss attributable to common stockholders, basic and diluted	$ (9,963)	(11,181)
Denominator		
Weighted average shares used in computing basic and diluted net loss per share attributable to common stockholders	11,580	11,460
Basic and diluted net loss per share attributable to common stockholders	$ (0.86)	$ (0.98)

Potentially dilutive securities are excluded from the calculation of diluted net loss per share attributable to common stockholders if their inclusion is anti-dilutive.

The following table shows the weighted-average shares from outstanding securities considered anti-dilutive and therefore excluded from the computation of diluted net loss per share attributable to common stockholders (in thousands):

	Three Months Ended March 31,	
	2024	2023
Convertible preferred stock (as converted)	5,003	5,003
Common stock options	1,372	1,548
Warrants for common stock	131	6
Total	6,506	6,557

For PSUs with market conditions, if the market conditions have not been satisfied by the end of the reporting period, the number of shares that would be issuable based on the market price at the end of the reporting period, as if the end of the reporting period were the end of the contingency period, will be included in the calculation of diluted earnings per share if the effect is dilutive. No shares would be issuable based on the market price of $24.05 per share as of March 31, 2024.

4. Licensing and Other Arrangements

Takeda

On November 1, 2006, the Company entered into the Takeda Collaboration Agreement with Takeda under which the Company agreed to discover and optimize therapeutic antibodies against multiple targets selected by Takeda.

Under the terms of the Takeda Collaboration Agreement, the Company may receive an aggregate of up to $19.0 million relating to TAK-079 (mezagitamab) and low single-digit royalties on future sales of all products subject to this license. The Company's right to receive milestone payments expires on the later of the receipt of payment from Takeda of the last amount to be paid under the agreement or the cessation by Takeda of all research and development activities with respect to all program antibodies, collaboration targets or collaboration products. The Company's right to receive royalties expires on the later of 13.5 years from the first commercial sale of each royalty-bearing discovery product or the expiration of the last-to-expire licensed patent (or 12 years from first commercial sale if there is significant generic competition post patent-expiration).

In February 2009, the Company expanded the existing collaboration to provide Takeda with access to multiple antibody technologies, including a suite of research and development technologies and integrated information and data management systems. The Company may receive milestones of up to $3.3 million per discovery product candidate and low single-digit royalties on future sales of all antibody products subject to this license. The Company's right to receive milestone payments expires on the later of the receipt of payment from Takeda of the last amount to be paid under the agreement or the cessation by Takeda of all research and development activities with respect to all program antibodies, collaboration targets or collaboration products. The Company's right to receive royalties expires on the later of 10 years from the first commercial sale of such royalty-bearing discovery product or the expiration of the last-to-expire licensed patent. In August 2021, Molecular Templates, Inc., assumed full rights to TAK-169 from Takeda, including full control of TAK-169 clinical development, per the terms of its terminated collaboration agreement with Takeda.

The Company has received $3.0 million of milestone payments since the inception of the agreement and is eligible to receive additional milestone payments of up to $16.0 million under the Takeda Collaboration Agreement.

As of March 31, 2024 and December 31, 2023, there were no contract assets or contract liabilities related to this arrangement and none of the costs to obtain or fulfill the contract were capitalized. The Company did not recognize any revenue related to this arrangement during the three months ended March 31, 2024 and 2023.

Rezolute

On December 6, 2017, the Company entered into a license agreement with Rezolute pursuant to which the Company granted an exclusive global license to Rezolute to develop and commercialize RZ358 (previously known as

"X358") products for all indications. In addition, the Company entered into a common stock purchase agreement with Rezolute pursuant to which Rezolute agreed to issue to the Company, as consideration for receiving the license for RZ358, a certain number of its common stock in connection with any future equity financing activities.

Under the terms of the license agreement, Rezolute is responsible for all development, regulatory, manufacturing and commercialization activities associated with RZ358 and is required to make certain development, regulatory and commercial milestone payments to the Company of up to an aggregate of $232.0 million based on the achievement of pre-specified criteria. Under the license agreement, the Company is also eligible to receive royalties ranging from the high single-digits to the mid-teens based upon annual net sales of any commercial product incorporating RZ358.

The Company concluded that the development and regulatory milestone payments are solely dependent on Rezolute's performance and achievement of the specified events. The Company determined that it is not probable that a significant cumulative revenue reversal will not occur in future periods for these future payments. Therefore, the remaining development and regulatory milestones are fully constrained and excluded from the transaction price until the respective milestone is achieved. Any consideration related to commercial milestones (including royalties) will be recognized when the related sales occur as they were determined to relate predominantly to the licenses granted to Rezolute and therefore, have also been excluded from the transaction price. At the end of each reporting period, the Company will update its assessment of whether an estimate of variable consideration is constrained and update the estimated transaction price accordingly.

Rezolute's obligation to pay royalties with respect to a particular RZ358 product and country will continue for the later of the date of expiration of the last valid patent claim covering the product in each country, or 12 years from the date of the first commercial sale of the product in each country. Rezolute's future royalty obligations in the U.S. will be reduced by 20% if the manufacture, use or sale of a licensed product is not covered by a valid patent claim, until such a claim is confirmed.

Pursuant to the license agreement, XOMA is eligible to receive a low single-digit royalty on sales of Rezolute's other non-RZ358 products from its current programs, including RZ402 which is in Phase 1 clinical study. Rezolute's obligation to pay royalties with respect to a particular Rezolute product and country will continue for the longer of 12 years from the date of the first commercial sale of the product in each country or for so long as Rezolute or its licensee is selling such product in any country, provided that any such licensee royalty will terminate upon the termination of the licensee's obligation to make payments to Rezolute based on sales of such product in each country.

The license agreement contains customary termination rights relating to material breach by either party. Rezolute also has a unilateral right to terminate the license agreement in its entirety on ninety days' notice at any time. To the extent permitted by applicable laws, the Company has the right to terminate the license agreement if Rezolute challenges the licensed patents.

No consideration was exchanged upon execution of the arrangement. In consideration for receiving the license for RZ358, Rezolute agreed to issue shares of its common stock and pay cash to the Company upon the occurrence of any future equity financing activities.

The license agreement was subsequently amended in 2018, 2019 and 2020. Pursuant to the terms of the license agreement as amended, the Company received a total of $6.0 million upon Rezolute's equity financing activities and $8.5 million in installment payments through October 2020. The Company also received 161,861 shares of Rezolute's common stock (as adjusted for the 1:50 reverse stock split in October 2020).

In January 2022, Rezolute dosed the last patient in its Phase 2b clinical trial for RZ358, which triggered a $2.0 million milestone payment due to the Company pursuant to the Rezolute License Agreement, as amended.

As of March 31, 2024 and December 31, 2023, there were no contract assets or contract liabilities related to this arrangement. None of the costs to obtain or fulfill the contract were capitalized. The Company did not recognize any revenue related to this arrangement during the three months ended March 31, 2024 and 2023.

Janssen

In August 2019, the Company entered into an agreement with Janssen pursuant to which the Company granted a non-exclusive license to Janssen to develop and commercialize certain product candidates, including XOMA's patents and know-how. Under the agreement, Janssen made a one-time payment of $2.5 million to XOMA. Additionally, for each product candidate, the Company is entitled to receive milestone payments of up to $3.0 million upon Janssen's achievement of certain clinical development and regulatory approval milestones. Additional milestone payments may be due for product candidates which are the subject of multiple clinical trials. Upon commercialization, the Company is eligible to receive 0.75% royalty on net sales of each product. Janssen's obligation to pay royalties with respect to a particular product and country will continue until the eighth-year-and-sixth-month anniversary of the first commercial sale of the product in such country. The agreement will remain in effect unless terminated by mutual written agreement.

The Company concluded that the agreement should be accounted for separately from any prior arrangements with Janssen and that the license grant is the only performance obligation under the new agreement. The Company recognized the entire one-time payment of $2.5 million as revenue for the year ended December 31, 2019 as it had completed its performance obligation.

The Company concluded that the development and regulatory milestone payments are solely dependent on Janssen's performance and achievement of specified events and thus it is not probable that a significant cumulative revenue reversal will not occur in future periods for these future payments. Therefore, the development and regulatory milestones are fully constrained and excluded from the transaction price until the respective milestone is achieved. Any consideration related to royalties will be recognized when the related sales occur as they were determined to relate predominantly to the license granted to Janssen and therefore, have also been excluded from the transaction price. At the end of each reporting period, the Company will update its assessment of whether an estimate of variable consideration is constrained and update the estimated transaction price accordingly.

As of March 31, 2024 and December 31, 2023, there were no contract assets or contract liabilities related to this arrangement. None of the costs to obtain or fulfill the contract were capitalized. The Company did not recognize any revenue related to this arrangement during the three months ended March 31, 2024 and 2023.

Novartis – Anti-TGFβ Antibody (NIS793)

On September 30, 2015, the Company and Novartis entered into the Anti-TGFβ Antibody License Agreement under which the Company granted Novartis an exclusive, world-wide, royalty-bearing license to the Company's anti-transforming growth factor beta ("TGFβ") antibody program (now "NIS793"). Under the terms of the Anti-TGFβ Antibody License Agreement, Novartis has worldwide rights to NIS793 and is responsible for the development and commercialization of antibodies and products containing antibodies arising from NIS793. Unless terminated earlier, the Anti-TGFβ Antibody License Agreement will remain in effect, on a country-by-country and product-by-product basis, until Novartis' royalty obligations end. The Anti-TGFβ Antibody License Agreement contains customary termination rights relating to material breach by either party. Novartis also has a unilateral right to terminate the Anti-TGFβ Antibody License Agreement on an antibody-by-antibody and country-by-country basis or in its entirety upon 180 days' notice.

The Company concluded that there were multiple promised goods and services under the Anti-TGFβ Antibody License Agreement, including the transfer of license, regulatory services and transfer of materials, process and know-how, which were determined to represent one combined performance obligation. The Company recognized the entire upfront payment of $37.0 million as revenue in the consolidated statement of comprehensive loss in 2015 as it had completed its performance obligations as of December 31, 2015.

The Company was eligible to receive up to a total of $480.0 million in development, regulatory and commercial milestones under the Anti-TGFβ Antibody License Agreement. During the year ended December 31, 2017, Novartis achieved a clinical development milestone pursuant to the Anti-TGFβ Antibody License Agreement, and as a result, the Company earned a $10.0 million milestone payment.

The Company concluded that the development and regulatory milestone payments are solely dependent on Novartis' performance and achievement of the specified events. The Company determined that it is not probable that a significant cumulative revenue reversal will not occur in future periods for these future payments. Therefore, the remaining development and regulatory milestones are fully constrained and excluded from the transaction price. Any consideration related to commercial milestones (including royalties) will be recognized when the related sales occur as they were determined to relate predominantly to the licenses granted to Novartis and therefore, have also been excluded from the transaction price. At the end of each reporting period, the Company will update its assessment of whether an estimate of variable consideration is constrained and update the estimated transaction price accordingly.

The Company is also eligible to receive royalties on sales of licensed products, which are tiered based on sales levels and range from a mid-single-digit percentage rate to up to a low double-digit percentage rate. Novartis' obligation to pay royalties with respect to a particular product and country will continue for the longer of the date of expiration of the last valid patent claim covering the product in that country, or ten years from the date of the first commercial sale of the product in that country.

In August 2023, Novartis communicated to the Company its intent to discontinue development activities related to NIS793.

As of March 31, 2024 and December 31, 2023, there were no contract assets or contract liabilities related to this arrangement. None of the costs to obtain or fulfill the contract were capitalized. The Company did not recognize any revenue related to this arrangement during the three months ended March 31, 2024 and 2023.

Novartis – Anti-IL-1β Antibody (VPM087)

On August 24, 2017, the Company and Novartis entered into the Gevokizumab License Agreement under which the Company granted to Novartis an exclusive, worldwide, royalty-bearing license to gevokizumab ("VPM087"), a novel anti-Interleukin-1 ("IL-1") beta allosteric monoclonal antibody and related know-how and patents. Under the terms of the Gevokizumab License Agreement, Novartis is solely responsible for the development and commercialization of VPM087 and products containing VPM087.

On August 24, 2017, pursuant to a separate agreement (the "IL-1 Target License Agreement"), the Company granted to Novartis non-exclusive licenses to its intellectual property covering the use of IL-1 beta targeting antibodies in the treatment and prevention of cardiovascular disease and other diseases and conditions, and an option to obtain an exclusive license (the "Exclusivity Option") to such intellectual property for the treatment and prevention of cardiovascular disease.

Under the Gevokizumab License Agreement, the Company received total consideration of $30.0 million for the license and rights granted to Novartis. Of the total consideration, $15.7 million was paid in cash and $14.3 million (equal to €12.0 million) was paid by Novartis, on behalf of the Company, to settle the Company's outstanding debt with Les Laboratories Servier ("Servier") (the "Servier Loan"). In addition, Novartis extended the maturity date on the Company's debt to Novartis. The Company also received $5.0 million cash related to the sale of 539,131 shares of the Company's common stock, at a purchase price of $9.2742 per share. The fair market value of the common stock issued to Novartis was $4.8 million, based on the closing stock price of $8.93 per share on August 24, 2017, resulting in a $0.2 million premium paid to the Company.

Based on the achievement of pre-specified criteria, the Company is eligible to receive up to $438.0 million in development, regulatory and commercial milestones under the Gevokizumab License Agreement. The Company is also eligible to receive royalties on sales of licensed products, which are tiered based on sales levels and range from the high single-digits to mid-teens. Under the IL-1 Target License Agreement, the Company received an upfront cash payment of $10.0 million and is eligible to receive low single-digit royalties on canakinumab sales in cardiovascular indications covered by the Company's patents. Should Novartis exercise the Exclusivity Option, the royalties on canakinumab sales will increase to the mid-single-digits.

Unless terminated earlier, the Gevokizumab License Agreement and IL-1 Target License Agreement will remain in effect, on a country-by-country and product-by-product basis, until Novartis' royalty obligations end. The two agreements contain customary termination rights relating to material breach by either party. Novartis also has a unilateral right to terminate the Gevokizumab License Agreement on a product-by-product and country-by-country basis or in its entirety on six months' prior written notice to the Company. Under the IL-1 Target License Agreement, Novartis has a unilateral right to terminate the agreement on a product-by-product and country-by-country basis or in its entirety upon a prior written notice.

The Gevokizumab License Agreement and IL-1 Target License Agreement were accounted for as one arrangement because they were entered into at the same time in contemplation of each other. The Company concluded that there are multiple promised goods and services under the combined arrangement, including the transfer of license to IL-1 beta targeting antibodies, and the transfer of license, know-how, process, materials and inventory related to the VPM087 antibody, which were determined to represent two distinct performance obligations. The Company determined that the Exclusivity Option is not an option with material right because the upfront payments to the Company were not negotiated to provide an incremental discount for the future additional royalties upon exercise of the Exclusivity Option. Therefore, the Company concluded that the Exclusivity Option is not a performance obligation. The additional royalties will be recognized as revenue when, and if, Novartis exercises its option because the Company has no further performance obligations at that point.

At the inception of the arrangement, the Company determined that the transaction price under the arrangement was $40.2 million, which consisted of the $25.7 million upfront cash payments, the $14.3 million Servier Loan payoff and the $0.2 million premium on the sale of the common stock. The transaction price was allocated to the two performance obligations based on their standalone selling prices. The Company determined that the nature of the two performance obligations is the right to use the licenses as they exist at the point of transfer, which occurred when the transfer of materials, process and know-how, and filings to regulatory authority were completed. During the year ended December 31, 2017, the Company recognized the entire transaction price of $40.2 million as revenue upon completion of the delivery of the licenses and related materials, process and know-how and filings to regulatory authority.

The Company concluded that the development and regulatory milestone payments are solely dependent on Novartis' performance and achievement of specified events. The Company determined that it is not probable that a significant cumulative revenue reversal will not occur in future periods for these future payments. Therefore, the development and regulatory milestones are fully constrained and excluded from the transaction price until the respective milestone is achieved. Any consideration related to commercial milestones (including royalties) will be recognized when the related sales occur as they were determined to relate predominantly to the licenses granted to Novartis and therefore, have also been excluded from the transaction price. At the end of each reporting period, the Company will update its assessment of whether an estimate of variable consideration is constrained and update the estimated transaction price accordingly.

As of March 31, 2024 and December 31, 2023, there were no contract assets or contract liabilities related to this arrangement and none of the costs to obtain or fulfill the contract were capitalized. The Company did not recognize any revenue related to this arrangement during the three months ended March 31, 2024 and 2023.

Sale of Future Revenue Streams

On December 21, 2016, the Company entered into two royalty interest sale agreements (together, the "Royalty Sale Agreements") with HCRP. Under the first Royalty Sale Agreement, the Company sold its right to receive milestone payments and royalties on future sales of products subject to a License Agreement, dated August 18, 2005, between XOMA and Wyeth Pharmaceuticals (subsequently acquired by Pfizer) for an upfront cash payment of $6.5 million, plus potential additional payments totaling $4.0 million in the event three specified net sales milestones were met in 2017, 2018 and 2019. Based on actual sales, 2017, 2018, and 2019 sales milestones were not achieved. Under the second Royalty Sale Agreement entered into in December 2016, the Company sold its right to receive certain royalties under an Amended and Restated License Agreement dated October 27, 2006 between XOMA and Dyax Corp. for a cash payment of $11.5 million.

The Company classified the proceeds received from HCRP as unearned revenue, to be recognized as revenue under the units-of-revenue method over the life of the license agreements because of the Company's limited continuing involvement in the Royalty Sale Agreements. Such limited continuing involvement is related to the Company's undertaking to cooperate with HCRP in the event of litigation or a dispute related to the license agreements. Because the transaction was structured as a non-cancellable sale, the Company does not have significant continuing involvement in the generation of the cash flows due to HCRP and there are no guaranteed rates of return to HCRP, the Company recorded the total proceeds of $18.0 million as unearned revenue recognized under the units-of-revenue method. The Company allocated the total proceeds between the two Royalty Sale Agreements based on the relative fair value of expected payments to be made to HCRP under the license agreements. The unearned revenue is being recognized as revenue over the life of the underlying license agreements under "units-of-revenue" method. Under this method, amortization for a reporting period is calculated by computing a ratio of the allocated proceeds received from HCRP to the payments expected to be made by the licensees to HCRP over the term of the Royalty Sale Agreements, and then applying that ratio to the period's cash payment. During the third quarter of 2018, the Shire product underlying the Dyax Corp. license agreement was approved, and the Company began recognizing revenue under the units-of-revenue method due to sales of the approved product.

The Company recognized $0.5 million and $0.4 million in revenue under the units-of-revenue method under these arrangements during the three months ended March 31, 2024 and 2023, respectively. As of March 31, 2024, the current and non-current portions of the remaining unearned revenue recognized under the units-of-revenue method was $2.2 million and $6.7 million, respectively. As of December 31, 2023, the Company classified $2.1 million and $7.2 million as current and non-current unearned revenue recognized under the units-of-revenue method, respectively.

5. Royalty and Commercial Payment Purchase Agreements

Short-term royalty and commercial payment receivables were $9.8 million and $14.2 million as of March 31, 2024 and December 31, 2023, respectively. Long-term royalty and commercial payment receivables were $65.6 million and $58.0 million as of March 31, 2024 and December 31, 2023, respectively.

Talphera Commercial Payment Purchase Agreement

DSUVIA was approved by the FDA in 2018 for use in adults in certified medically supervised healthcare settings. In April 2023, Talphera divested DSUVIA to Alora for an upfront payment, a 15% royalty on commercial net sales of DSUVIA and up to $116.5 million in sales-based milestone payments under the Talphera APA. In addition, Talphera is entitled to 75% of net sales of DSUVIA to the DoD for its services performed to support sales of DSUVIA to the DoD under the Talphera Marketing Agreement.

On January 12, 2024, the Company entered into the Talphera CPPA, pursuant to which XOMA will receive (i) 100% of the 15% royalty on commercial net sales and the sales-based milestones related to net sales of DSUVIA for sales made on and after January 1, 2024, and (ii) 100% of Talphera's future service revenue in the amount of 75% of net sales of DSUVIA to the DoD, until the Company receives $20.0 million. Thereafter, the Company will fully retain the 15% royalty on commercial net sales of DSUVIA and will share equally with Talphera the 75% of net sales of DSUVIA to the DoD and the remaining sales-based milestone payments due from Alora.

Upon closing of the transaction, the Company paid Talphera an upfront payment of $8.0 million, which was recorded as long-term royalty receivables in its consolidated balance sheet.

During the three months ended March 31, 2024, the Company received commercial payments pursuant to the Talphera CPPA of $25,000. In accordance with the cost recovery method, the cash received was recorded as a direct reduction of the long-term royalty receivable balance.

Based upon limited available information, the Company is unable to reasonably estimate future net sales and the commercial payments to be received during the twelve-month period following the quarter ended March 31, 2024 and, as such, no amounts are reflected as short-term royalty and commercial payment receivables as of March 31, 2024.

Under the cost recovery method, the Company does not expect to recognize any income related to milestones and commercial payment received until the purchase price has been fully collected. The Company performed its impairment assessment and no allowance for credit losses was recorded as of March 31, 2024.

LadRx Agreements

On June 21, 2023, the Company entered into the LadRx AAA pursuant to which the Company acquired from LadRx all of its rights, title and interest related to arimoclomol under an asset purchase agreement dated May 13, 2011 between Zevra and LadRx. The Company also entered into the LadRx RPA, pursuant to which the Company acquired the right to receive all of the future royalties, regulatory and commercial milestone payments as well as other related payments due to LadRx from ImmunityBio related to aldoxorubicin under a license agreement dated July 27, 2017, as amended on September 27, 2018, between ImmunityBio and LadRx.

The purchased rights related to arimoclomol include potential regulatory and commercial milestone payments of up to $52.5 million (net of certain payment obligations of up to $9.5 million based on a portion of the regulatory and commercial milestone payments) and potential royalty payments in low single-digit percentages of aggregate net sales associated with arimoclomol.

The purchased payments related to aldoxorubicin include potential regulatory and commercial milestone payments of up to $342.7 million and royalty payments on aggregate net sales of aldoxorubicin in the low to mid-teens for sales of orphan indications and mid to high single-digit percentages for sales of other licensed products.

Upon closing of the LadRx Agreements, the Company paid LadRx an upfront payment of $5.0 million and may pay up to an additional $6.0 million in regulatory and commercial sales milestone payments which included $5.0 million related to regulatory milestone payments and $1.0 million related to commercial sales milestone payments. The Company concluded that the regulatory milestone payments of $5.0 million met the definition of a derivative under ASC 815 and should be accounted for at fair value and recorded as a current liability at the inception of the transaction. The fair value of the regulatory milestone payments was estimated to be $1.0 million. The Company concluded the commercial milestone payment of $1.0 million did not meet the definition of a derivative under ASC 815 and a liability will be recognized when probable and estimable.

At the inception of the LadRx Agreements, the Company recorded $6.0 million as long-term royalty receivables related to the aggregate of the arimoclomol and aldoxorubicin payment rights acquired, which included the $5.0 million upfront payment and $1.0 million for the estimated fair value of the regulatory milestone payments.

On January 11, 2024, Zevra announced that the FDA accepted its NDA resubmission for arimoclomol and pursuant to the LadRx Agreements, the Company made a $1.0 million milestone payment to LadRx in January 2024 and the LadRx contingent consideration liability was reduced to zero as of March 31, 2024.

Under the cost recovery method, the Company does not expect to recognize any income related to royalties, milestone payments and other payments until the purchase price has been fully collected. The Company performed its impairment assessment and no allowance for credit losses was recorded as of March 31, 2024 and December 31, 2023.

Aptevo Commercial Payment Purchase Agreement

On March 29, 2023, the Company entered into the Aptevo CPPA, pursuant to which the Company acquired from Aptevo a portion of its milestone and commercial payment rights under a sale agreement dated February 28, 2020 between Aptevo and Medexus, related to IXINITY, which is marketed by Medexus for the control and prevention of bleeding episodes and postoperative management in people with Hemophilia B.

The Company is eligible to receive a mid-single digit percentage of all IXINITY quarterly net sales from January 1, 2023 until the first quarter of 2035, and will be entitled to milestone payments of up to $5.3 million.

At the inception of the Aptevo CPPA, the Company recorded $9.7 million as long-term royalty receivables in its consolidated balance sheet which included a $9.6 million upfront payment and a $50,000 one-time payment, which would be due if XOMA received more than $0.5 million in receipts for first quarter 2023 sales of IXINITY. At inception of the agreement, the Company concluded the one-time payment of $50,000 was probable and reasonably estimable. Therefore, the payment was recorded as a contingent liability under ASC 450 in the consolidated balance sheet at inception. The Company paid the one-time payment of $50,000 in June 2023 when related receipts exceeded $0.5 million.

During the year ended December 31, 2023 the Company received total commercial payments pursuant to the Aptevo CPPA of $1.7 million.

During the three months ended March 31, 2024, the Company received commercial payments pursuant to the Aptevo CPPA of $0.4 million. In accordance with the cost recovery method, the cash received was recorded as a direct reduction of the long-term royalty receivable balance.

Though the Company is unable to reasonably estimate its commercial payment stream from sales of future net sales and the commercial payments to be received under the agreement, it has a more accurate projection of the commercial payments expected for the twelve-month period following the condensed consolidated balance sheet dates. As such, as of March 31, 2024 and December 31, 2023, the Company recorded $2.0 million as short-term royalty and commercial payment receivables.

Under the cost recovery method, the Company does not expect to recognize any income related to milestones and commercial payment received until the purchase price has been fully collected. The Company performed its impairment assessment and no allowance for credit losses was recorded as of March 31, 2024 and December 31, 2023.

Agenus Royalty Purchase Agreement

On September 20, 2018, the Company entered into the Agenus RPA, pursuant to which the Company acquired the right to receive 33% of the future royalties on six Incyte Europe S.a.r.l. (“Incyte”) immuno-oncology assets, currently in development, due to Agenus from Incyte (net of certain royalties payable by Agenus to a third party) and 10% of all future developmental, regulatory and commercial milestone payments related to these assets. However, the Company did not have a right to the expected near-term milestone associated with the entry of INCAGN2390 (anti-TIM-3) into its Phase 1 clinical trial. The future royalties due to Agenus from Incyte are based on low single to mid-teen digit percentages of applicable net sales.

In addition, the Company acquired the right to receive 33% of the future royalties on MK-4830, an immuno-oncology product, due to Agenus from Merck and 10% of all future developmental, regulatory and commercial milestones related to this asset. The future royalties due to Agenus from Merck are based on low single-digit percentage of applicable net sales. Pursuant to the Agenus RPA, the Company’s share in future potential development, regulatory and commercial milestones is up to $59.5 million. There is no limit on the amount of future royalties on sales that the Company may receive under the agreements.

Under the terms of the Agenus RPA, the Company paid Agenus an upfront payment of $15.0 million. At the inception of the agreement, the Company recorded $15.0 million as long-term royalty receivables in the consolidated balance sheets.

In November 2020, MK-4830 advanced into Phase 2 development, and Agenus earned a $10.0 million clinical development milestone payment under its license agreement with Merck, of which the Company earned $1.0 million. In accordance with the cost recovery method, the $1.0 million milestone payment received was recorded as a direct reduction of the recorded long-term royalty receivable balance.

As of March 31, 2024, no payments were probable to be received under the Agenus RPA in the near term. Under the cost recovery method, the Company does not expect to recognize any income related to milestone and royalty payments received until the purchase price has been fully collected. The Company performed its impairment assessment and no allowance for credit losses was recorded as of March 31, 2024 and December 31, 2023.

Aronora Royalty Purchase Agreement

On April 7, 2019, the Company entered into the Aronora RPA which closed on June 26, 2019. Under the Aronora RPA, the Company acquired the right to receive future royalties and a portion of upfront, milestone and option payments (the "Non-Royalties") related to five anti-thrombotic hematology product candidates. Three candidates were subject to Aronora's collaboration with Bayer (the "Bayer Products"), including one which was subject to an exclusive license option by Bayer. The Company will receive 100% of future royalties and 10% of future Non-Royalties economics from these Bayer Products. The other two candidates are unpartnered (the "non-Bayer Products") for which the Company will receive a low single-digit percentage of net sales and 10% of Non-Royalties. The future payment percentage for Non-Royalties will be reduced from 10% to 5% upon the Company's receipt of two times the total cumulative amount of consideration paid by the Company to Aronora. In July 2020, Bayer elected to not exercise its option on the third Bayer Product and that product is now subject to the same economic terms as the non-Bayer Products.

Under the terms of the Aronora RPA, the Company paid Aronora a $6.0 million upfront payment at the close of the transaction. The Company financed $3.0 million of the upfront payment with a term loan under its Loan and Security Agreement with SVB. The Company was required to make a contingent future cash payment of $1.0 million for each of the three Bayer Products that were active on September 1, 2019 (up to a total of $3.0 million, the "Aronora Contingent Consideration"). Pursuant to the Aronora RPA, if the Company receives at least $25.0 million in cumulative royalties on net sales per product, the Company will be required to pay associated tiered milestone payments to Aronora in an aggregate amount of up to $85.0 million per product (the "Royalty Milestones"). The Royalty Milestones are paid based upon various royalty tiers prior to reaching $250.0 million in cumulative royalties on net sales per product. Royalties per product in excess of $250.0 million are retained by the Company.

At the inception of the agreement, the Company recorded $9.0 million as long-term royalty receivables in its consolidated balance sheet, including the estimated fair value of the Aronora Contingent Consideration of $3.0 million. In September 2019, the Company paid the $3.0 million contingent consideration to Aronora. As the Company receives royalties from Aronora for a product, the Company will recognize the liability for future Royalty Milestones for such product when probable and estimable.

As of March 31, 2024, no payments were probable to be received under the Aronora RPA in the near term. Under the cost recovery method, the Company does not expect to recognize any income related to milestones and royalties received until the purchase price has been fully collected. The Company performed its impairment assessment and no allowance for credit losses was recorded as of March 31, 2024 and December 31, 2023. Based on communications in April 2024, the Company will be evaluating the status of the partnered programs for potential impairment in the second quarter of 2024.

Palobiofarma Royalty Purchase Agreement

On September 26, 2019, the Company entered into the Palo RPA, pursuant to which the Company acquired the rights to potential royalty payments in low single-digit percentages of aggregate net sales associated with six product candidates in various clinical development stages, targeting the adenosine pathway with potential applications in solid tumors, non-Hodgkin's lymphoma, asthma/chronic obstructive pulmonary disease, ulcerative colitis, idiopathic pulmonary fibrosis, lung cancer, psoriasis and nonalcoholic steatohepatitis and other indications (the "Palo Licensed Products") that are being developed by Palo.

Under the terms of the Palo RPA, the Company paid Palo an upfront payment of $10.0 million payment at the close of the transaction, which occurred simultaneously upon parties' entry into the Palo RPA on September 26, 2019. At the inception of the agreement, the Company recorded $10.0 million as long-term royalty receivables in its consolidated balance sheet.

As of March 31, 2024, no payments were probable to be received under the Palo RPA in the near term. Under the cost recovery method, the Company does not expect to recognize any income related to royalties received until the purchase price has been fully collected. The Company performed its impairment assessment and no allowance for credit losses was recorded as of March 31, 2024 and December 31, 2023.

Viracta Royalty Purchase Agreement

On March 22, 2021, the Company entered into the Viracta RPA, as amended March 4, 2024, pursuant to which the Company acquired the right to receive future royalties, milestone payments and other payments related to two clinical-stage drug candidates for an upfront payment of $13.5 million. The first candidate, DAY101 (a pan-RAF kinase inhibitor), is being developed by Day One, and the second candidate, vosaroxin (a topoisomerase II inhibitor), is being developed by Denovo Biopharma. The Company acquired the right to receive (i) up to $54.0 million in potential milestone payments, potential royalties on sales, if approved, and a portion of potential other payments related to DAY101, excluding up to $5.0 million retained by Viracta, and (ii) up to $57.0 million in potential regulatory and commercial milestones and high single-digit royalties on sales related to vosaroxin, if approved.

At the inception of the Viracta RPA, the Company recorded $13.5 million as long-term royalty receivables in its consolidated balance sheet.

On October 30, 2023, the Company earned a $5.0 million milestone payment pursuant to the Viracta RPA related to the FDA's acceptance of Day One' NDA for tovorafenib. In accordance with the cost recovery method, the $5.0 million milestone payment received was recorded as a direct reduction of the recorded long-term royalty receivable balance.

Under the cost recovery method, the Company does not expect to recognize any income related to royalties, milestone payments and other payments until the purchase price has been fully collected. The Company performed its impairment assessment and no allowance for credit losses was recorded as of March 31, 2024 and December 31, 2023.

Kuros Royalty Purchase Agreement

On July 14, 2021, the Company entered into the Kuros RPA, pursuant to which the Company acquired the rights to 100% of the potential future royalties from commercial sales, which are tiered from high single-digit to low double-digits, and up to $25.5 million in pre-commercial milestone payments associated with an existing license agreement related to Checkmate Pharmaceuticals' vidutolimod (CMP-001), a Toll-like receptor 9 agonist, packaged in a virus-like particle, for an upfront payment of $7.0 million. The Company may pay up to an additional $142.5 million to Kuros in sales-based milestone payments.

At the inception of the Kuros RPA, the Company recorded $7.0 million as long-term royalty receivables in its consolidated balance sheet.

In May 2022, Regeneron completed its acquisition of Checkmate Pharmaceuticals resulting in a $5.0 million milestone payment to Kuros. Pursuant to the Kuros RPA, the Company is entitled to 50% of the milestone payment, which was received by XOMA in July 2022. In accordance with the cost recovery method, the $2.5 million milestone received was recorded as a direct reduction of the recorded long-term royalty receivable balance.

As of March 31, 2024, no payments were probable to be received under the Kuros RPA in the near term. Under the cost recovery method, the Company does not expect to recognize any income related to royalties, milestone payments and other payments until the purchase price has been fully collected. The Company performed its impairment assessment and no allowance for credit losses was recorded as of March 31, 2024 and December 31, 2023.

Affitech Commercial Payment Purchase Agreement

On October 6, 2021, the Company entered into the Affitech CPPA, pursuant to which, the Company purchased a future stream of commercial payment rights to Roche's faricimab from Affitech for an upfront payment of $6.0 million. The Company is eligible to receive 0.5% of future net sales of faricimab for a ten-year period following the first commercial sales in each applicable jurisdiction. Under the terms of the Affitech CPPA, the Company may pay up to an additional $20.0 million based on the achievement of certain regulatory and sales milestones. At the inception of the Affitech CPPA, the Company recorded $14.0 million as long-term royalty receivables which included the $6.0 million upfront payment and $8.0 million in regulatory milestone payments in its consolidated balance sheet. The Company concluded the regulatory milestone payments of $8.0 million met the definition of a derivative under ASC 815 and should

be accounted at fair value and recorded as a current liability at the inception of the transaction. Therefore, the regulatory milestone payments were recorded as contingent liabilities in its consolidated balance sheet. The Company concluded the sales-based milestone payments of up to $12.0 million do not meet the definition of a derivative under ASC 815 and a liability will be recognized when probable and estimable.

In January 2022, Roche received approval from the FDA to commercialize VABYSMO (faricimab-svoa) for the treatment of wet, or neovascular, age-related macular degeneration and diabetic macular edema. In September 2022, Roche received approval from the European Commission to commercialize VABYSMO for the treatment of wet, or neovascular, age-related macular degeneration and visual impairment due to diabetic macular edema. Pursuant to the Affitech CPPA, the Company paid Affitech a $5.0 million milestone payment tied to the U.S. marketing approvals and a $3.0 million milestone payment tied to the EC approvals.

Commercial payments are due from Roche within 60 days of December 31 and June 30 of each year. In accordance with the cost recovery method, commercial payments received are recorded as direct reductions of short-term and long-term receivable balances, as applicable.

During the three months ended March 31, 2024, the Company received $7.4 million from Roche.

Though the Company is unable to reasonably estimate its commercial payment stream from sales of future net sales and the commercial payments to be received under the agreement, it has a more accurate projection of the commercial payments expected for the twelve-month period following the consolidated balance sheet dates. As such, as of March 31, 2024 and December 31, 2023, the Company recorded $7.8 million and $12.2 million, respectively, as short-term royalty and commercial payment receivables.

The achievement of the first and second sales-based milestone payments under the Affitech CPPA was considered probable as of December 31, 2023, and as such the Company recognized a $6.0 million contingent liability in contingent consideration under RPAs, AAAs and CPPAs in its consolidated balance sheet. The sales milestones were achieved in 2023 and in the first quarter of 2024, the Company paid Affitech $6.0 million and the related contingent liability balance was reduced to zero in its condensed consolidated balance sheet as of March 31, 2024.

Based on reported first quarter of 2024 sales of VABYSMO, the achievement of the third sales-based milestone payment under the Affitech CPPA was considered probable as of March 31, 2024, and the Company recognized a $3.0 million contingent liability in the condensed consolidated balance sheet. The Company may pay up to $3.0 million in an additional sales-based milestone payment upon the achievement of one remaining incremental sales milestone in the future. The final milestone was not assessed as probable and as a result is not recorded as a contingent liability as of March 31, 2024.

Under the cost recovery method, the Company does not expect to recognize any income related to future commercial payment receipts until the purchase price has been fully collected. The Company performed its impairment assessment and no allowance for credit losses was recorded as of March 31, 2024 and December 31, 2023.

The following table summarizes the royalty and commercial payment receivable activities during the three months ended March 31, 2024 (in thousands):

	Short-Term	Long-Term
Balance as of January 1, 2024	$ 14,215	$ 57,952
Acquisition of royalty and commercial payment receivables:		
Talphera	—	8,000
Receipt of royalty and commercial payments:		
Affitech	(7,396)	—
Aptevo	(350)	—
Talphera	—	(25)
Reclassification to short-term royalty and commercial payment receivables:		
Aptevo	350	(350)
Recognition of contingent consideration:		
Affitech	3,000	—
Balance as of March 31, 2024	$ 9,819	$ 65,577

6. Fair Value Measurements

The Company records its financial assets and liabilities at fair value. The carrying amounts of certain of the Company's financial instruments, including cash, trade receivables, net and accounts payable, approximate their fair value due to their short maturities. Fair value is defined as the exchange price that would be received from selling an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. The accounting guidance for fair value establishes a framework for measuring fair value and a fair value hierarchy that prioritizes the inputs used in valuation techniques. The accounting standard describes a fair value hierarchy based on three levels of inputs, of which the first two are considered observable and the last unobservable, that may be used to measure fair value which are the following:

Level 1 – Observable inputs, such as unadjusted quoted prices in active markets for identical assets or liabilities.

Level 2 – Observable inputs, either directly or indirectly, other than quoted prices in active markets for identical assets or liabilities, such as quoted prices in active markets for similar assets or liabilities, quoted prices in markets that are not active or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the assets or liabilities.

Level 3 – Unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the assets or liabilities; therefore, requiring an entity to develop its own valuation techniques and assumptions.

The following tables set forth the Company's fair value hierarchy for its financial assets and liabilities measured at fair value on a recurring basis as follows (in thousands):

	Fair Value Measurements at March 31, 2024 Using:			
	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)	Total
Assets:				
Cash equivalents:				
Money market funds	$ 134,729	$ —	$ —	$ 134,729
Total cash equivalents	134,729	—	—	134,729
Equity securities	413	—	—	413
Total financial assets	$ 135,142	$ —	$ —	$ 135,142
Liabilities:				
Contingent consideration under RPAs, AAAs and CPPAs, measured at fair value	$ —	$ —	$ —	$ —

	Fair Value Measurements at December 31, 2023 Using:			
	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)	Total
Assets:				
Cash equivalents:				
Money market funds	$ 28,352	$ —	$ —	$ 28,352
Total cash equivalents	28,352	—	—	28,352
Equity securities	161	—	—	161
Total financial assets	$ 28,513	$ —	$ —	$ 28,513
Liabilities:				
Contingent consideration under RPAs, AAAs and CPPAs, measured at fair value	$ —	$ —	$ 1,000	$ 1,000

Equity Securities

The equity securities consisted of an investment in Rezolute's common stock and are classified on the condensed consolidated balance sheets as current assets as of March 31, 2024 and December 31, 2023. The equity securities are revalued each reporting period with changes in fair value recorded in the other income (expense), net line item of the condensed consolidated statements of operations and comprehensive loss. As of March 31, 2024 and December 31, 2023 the Company valued the equity securities using the closing price for Rezolute's common stock traded on the Nasdaq Stock Market of $2.55 and $0.99, respectively. The inputs that were used to calculate the fair value of the equity securities were observable prices in active markets and therefore were classified as a Level 1 fair value measurement.

Contingent Consideration Measured at Fair Value

During the three months ended March 31, 2024, the contingent liability recorded pursuant to the LadRx Agreements decreased to zero after the Company paid LadRx $1.0 million upon achievement of a related regulatory milestone in January 2024 (Note 5).

As of March 31, 2024, the estimated fair value of the remaining LadRx contingent consideration liability is zero as it represents the future consideration that is contingent upon the achievement of a specified regulatory milestone for the product candidate related to aldoxorubicin. The fair value measurement is based on significant Level 3 inputs such as anticipated timelines and probability of achieving development milestones of aldoxorubicin. Such contingent

consideration is remeasured at fair value at each reporting period with changes in fair value recorded in the other income (expense), net line item of the condensed consolidated statements of operations and comprehensive loss until settlement.

7. Lease Agreement

The Company leases one facility in Emeryville, California under an operating lease. In January 2023, the Company amended the original lease to extend the lease term five months from its original expiration of February 28, 2023 to July 31, 2023 (the "amended lease agreement" or the "amended lease").

The Company retained no option to further extend, renew or terminate the amended lease under the amended terms and all other material terms and conditions, including the monthly base rent, remained consistent with the original lease.

In accordance with ASC 842, the Company accounted for the amendment to extend the lease term as a modification of the original lease and, as such, remeasured the lease liability and recognized a corresponding adjustment to the right-of-use asset of $0.1 million to reflect the changes in the lease payments due to the extended lease term.

On June 27, 2023, the Company executed the second lease amendment for its corporate headquarters lease in Emeryville, California with the same counterparty, in a different location in the same building to replace its existing amended lease which expired in July 2023 (the "new lease agreement" or the "new lease"). The new lease agreement commenced on November 10, 2023 and has a term of 65 months.

Under the new lease agreement, the Company retained access to its original premises under the amended lease which expired in July 2023, until the new premises became available on November 10, 2023. Payments made between when the lease expired in July 2023 and the commencement date of the new premises of November 10, 2023 were recorded as variable lease costs in the consolidated statement of operations and comprehensive loss for the year ended December 31, 2023.

In accordance with ASC 842, the Company accounted for the new lease as a separate contract and the Company recognized an operating lease right-of-use assets of $0.4 million and operating lease liabilities of $0.4 million on November 10, 2023, the commencement date of the lease.

The following table summarizes maturity of the new lease through the 65-month term of the Company's operating lease liabilities as of March 31, 2024 (in thousands):

Year	Rent Payments
2024 (excluding the three months ended March 31, 2024)	$ 60
2025	85
2026	88
2027	91
2028	102
Thereafter	36
Total undiscounted lease payments	462
Present value adjustment	(88)
Total net lease liability	$ 374

As of March 31, 2024 and December 31, 2023, the total net lease liability was $0.4 million.

As of December 31, 2023, the Company's current and non-current operating lease liabilities were $0.1 million and $0.3 million, respectively.

As of March 31, 2024, the Company's current and non-current operating lease liabilities were $0.1 million and $0.3 million, respectively.

The following table summarizes the cost components of the Company's operating leases for the three months ended March 31, 2024 and 2023 (in thousands):

	Three Months Ended March 31,	
	2024	2023
Lease costs:		
Operating lease cost	$ 22	$ 48
Variable lease cost [1]	(2)	5
Total lease costs	$ 20	$ 53

(1) Under the terms of the original, amended and new lease agreements, the Company is also responsible for certain variable lease payments that are not included in the measurement of the lease liability. Variable lease payments include non-lease components such as common area maintenance fees. The negative balance for the period ended March 31, 2024 was due to the lessor's reconciliation of variable lease costs from which a credit was due to the Company.

The following information represents supplemental disclosure for the condensed consolidated statements of cash flows related to operating leases (in thousands):

	Three Months Ended March 31,	
	2024	2023
Cash paid for amounts included in the measurement of lease liabilities		
Operating cash flows under operating leases	$ 23	$ 52

The following information represents supplemental disclosure for the condensed consolidated statements of cash flows related to operating leases (in thousands):

	March 31, 2024	December 31, 2023
Weighted-average remaining lease term	5.08 years	5.33 years
Weighted-average discount rate	8.50 %	8.50 %

8. Long-Term Debt

On December 15, 2023, XOMA transferred to XRL, a newly formed wholly owned subsidiary, all its rights, title and interest in the commercial payments from Roche's VABYSMO under the Affitech CPPA and related assets (the "Commercial Payments"). The VABYSMO-related assets and rights transferred to XRL are referred to herein as the "Transferred Assets."

Simultaneously, XRL entered into the Blue Owl Loan Agreement with Blue Owl and lenders, pursuant to which XRL was extended certain senior secured credit facilities in an aggregate principal amount of up to $140.0 million. The principal and interest of the loan are to be paid from the Commercial Payments. XRL is obligated to make semi-annual interest payments, starting in March 2024, at a fixed rate of 9.875% per annum until the commercial payment-backed loan is repaid, at which time the Commercial Payments will revert back to XOMA. On each interest payment date, any shortfall in interest payment will be paid from the interest reserve, any uncured shortfall in interest payment that exceeds the interest reserve will increase the outstanding principal amount of the loan, and any Commercial Payment in excess of accrued interest on the loan will be used to repay the principal of the loan until the balance is fully repaid.

The loan matures on December 15, 2038, provided that XRL may repay it in full at any time prior to December 15, 2038, subject to the terms of the Blue Owl Loan Agreement. The Blue Owl Loan includes (i) an initial term loan in an

aggregate principal amount equal to $130.0 million and (ii) a delayed draw term loan in an aggregate principal amount of $10.0 million to be funded at the option of the XRL upon receipt by the lenders of payments of principal and interest from the proceeds of Commercial Payments in excess of an agreed upon amount on or prior to March 15, 2026.

The payment obligations under the Blue Owl Loan Agreement are limited to XRL, and Blue Owl has no recourse under the Blue Owl Loan Agreement against XOMA or any assets other than the Transferred Assets and XOMA's equity interest in XRL. In connection with the Blue Owl Loan Agreement, (i) XRL granted Blue Owl a first-priority perfected lien on, and security interest in, (a) the Commercial Payments and the proceeds thereof, in each case under the Affitech CPPA and (b) all other assets of XRL and (ii) XOMA granted Blue Owl a first-priority perfected lien on, and security interest in 100% of the equity of XRL. The Blue Owl Loan Agreement contains other customary terms and conditions, including representations and warranties, as well as indemnification obligations in favor of Blue Owl.

On December 15, 2023, the Company borrowed the initial term loan of $130.0 million and received $119.6 million, net of $4.1 million in fees and lender expenses and $6.3 million that was deposited into reserve accounts to pay interest, administrative fees and XRL's operating expenses (see Note 2). The Company also incurred $0.6 million of direct issuance costs related to the Blue Owl Loan Agreement.

In connection with the Blue Owl Loan Agreement, XOMA issued to Blue Owl and certain funds affiliated with Blue Owl warrants to purchase: (i) up to 40,000 shares of XOMA's common stock at an exercise price of $35.00 per share; (ii) up to 40,000 shares of XOMA's common stock at an exercise price of $42.50 per share; and (iii) up to 40,000 shares of XOMA's common stock at an exercise price of $50.00 per share (collectively, the "Blue Owl Warrants"). The fair value of the Blue Owl Warrants was determined using the Black-Scholes Model (see Note 2) and was estimated to be $1.5 million. As of March 31, 2024, all Blue Owl Warrants were outstanding.

The initial term loan of $130.0 million is carried at amortized cost. Amortization of the initial term loan is applied under the expected-effective-yield approach using the retrospective interest method. As of December 31, 2023, the effective interest rate was determined to be 11.01%. The Company recorded a debt discount of $5.3 million, which included $3.8 million in allocated fees and lender expenses and $1.5 million for the fair value of the Blue Owl Warrants. The Company also recorded $0.6 million in direct debt issuance costs allocated to the initial term loan. The Company will accrete both the debt discount of $5.3 million and $0.6 million of direct debt issuance costs over the expected term of the initial term loan.

As of the closing date of December 15, 2023, the Company recorded the $0.3 million allocated costs for the delayed draw term loan commitment as a non-current asset in other assets - long term in the consolidated balance sheet and will reclassify the amount as a debt discount when the delayed draw term loan is drawn. As of March 31, 2024, no amount had been drawn from the delayed draw term loan.

The carrying value of the short and long-term portion of the initial term loan was $5.5 million and $118.5 million, respectively, as of December 31, 2023. The Company recorded $0.6 million in interest expense during the year ended December 31, 2023.

In March 2024, XRL made a semi-annual payment of $7.4 million which included an interest payment of $3.8 million and principal repayment of $3.6 million. The carrying value of the short and long-term portion of the initial term loan was $6.1 million and $114.5 million, respectively, as of March 31, 2024. As of March 31, 2024, the effective interest rate was determined to be 11.05%. The Company recorded $3.6 million in interest expense during the three months ended March 31, 2024. As of March 31, 2024, the Company had an unaccreted debt discount of $5.1 million and unaccreted direct issuance costs of $0.6 million to be accreted over the expected remaining term of the initial term loan.

The following table summarizes the impact of the initial term loan on the Company's condensed consolidated balance sheet as of March 31, 2024 (in thousands):

	March 31, 2024
Gross principal	$ 130,000
Principal repayments	(3,616)
Unaccreted debt discount and debt issuance costs	(5,712)
Total carrying value net of principal repayments, unaccreted debt discount and debt issuance costs	120,672
Less: current portion of long-term debt	(6,144)
Long-term debt	$ 114,528

Long-term debt on the Company's condensed consolidated balance sheet as of March 31, 2024 and consolidated balance sheet as of December 31, 2023 includes only the carrying value of the Blue Owl Loan. The carrying value of the Blue Owl Loan as of December 31, 2023 was $124.0 million.

Aggregate projected future principal payments of the initial term loan as of March 31, 2024, are as follows (in thousands):

Year Ending December 31,	Payments
2024 (excluding the three months ended March 31, 2024)	$ 3,588
2025	10,246
2026	15,404
2027	19,609
2028	23,585
Thereafter	53,952
Total payments	$ 126,384

Accretion of debt discounts and issuance costs are included in interest expense. Interest expense in the condensed consolidated statements of operations and comprehensive loss for the three months ended March 31, 2024 relates to the initial term loan (in thousands):

	Three Months Ended March 31,	
	2024	2023
Accrued interest expense	$ 3,245	$ —
Accretion of debt discount and debt issuance costs	306	—
Total interest expense	$ 3,551	$ —

9. Common Stock Warrants

As of March 31, 2024 and December 31, 2023, the following common stock warrants were outstanding:

Issuance Date	Expiration Date	Balance Sheet Classification	Exercise Price per Share	March 31, 2024	December 31, 2023
May 2018	May 2028	Stockholders' equity	$ 23.69	6,332	6,332
March 2019	March 2029	Stockholders' equity	$ 14.71	4,845	4,845
December 2023	December 2033	Stockholders' equity	$ 35.00	40,000	40,000
December 2023	December 2033	Stockholders' equity	$ 42.50	40,000	40,000
December 2023	December 2033	Stockholders' equity	$ 50.00	40,000	40,000
				131,177	131,177

10. Commitments and Contingencies

Collaborative Agreements, Royalties and Milestone Payments

The Company has committed to make potential future milestone payments and legal fees to third parties as part of licensing and development programs. Payments under these agreements become due and payable only upon the achievement of certain developmental, regulatory and commercial milestones by the Company's licensees. Because it is uncertain if and when these milestones will be achieved, such contingencies, aggregating up to $6.3 million (assuming one product per contract meets all milestone events) have not been recorded on the accompanying condensed consolidated balance sheets. The Company is unable to determine precisely when and if payment obligations under the agreements will become due as these obligations are based on milestone events, the achievement of which is subject to a significant number of risks and uncertainties. None of these milestones were assessed to be probable as of March 31, 2024.

Contingent Consideration

Pursuant to the Company's agreements with Aronora, Kuros, Affitech and LadRx the Company has committed to pay the Aronora Royalty Milestones, the Kuros Sales Milestones, the Affitech Sales Milestones, and LadRx regulatory and commercial sales milestones.

As of December 31, 2023, the Company recorded $1.0 million for the LadRx contingent consideration that represented the estimated fair value of the potential future payments upon the achievement of regulatory milestones related to arimoclomol and aldoxorubicin at the inception of the LadRx Agreements. During the three months ended March 31, 2024, the contingent liability decreased to zero after the Company paid LadRx $1.0 million upon the FDA's acceptance of the arimoclomol NDA resubmission (Note 5). As of March 31, 2024, the Company recorded zero for the LadRx contingent consideration as the estimated fair value of the potential future payment upon the achievement of regulatory milestones related to aldoxorubicin was negligible. Such contingent consideration related to regulatory milestones is remeasured at fair value at each reporting period, with changes in fair value recorded in other income (expense), net.

During the year ended December 31, 2023, certain sales milestones related to VABYSMO pursuant to the Affitech CPPA were assessed to be probable under ASC 450. As such, a $6.0 million liability was recorded in contingent consideration under RPAs, AAAs and CPPAs and a corresponding $6.0 million asset was recorded under long-term royalty and commercial payment receivables on the consolidated balance sheet. During the three months ended March 31, 2024, this contingent liability decreased to zero after the Company paid Affitech $6.0 million upon the achievement of the related commercial sales milestones (Note 5).

During the three months ended March 31, 2024, a sales milestone related to VABYSMO pursuant to the Affitech CPPA was assessed to be probable under ASC 450. As such, a $3.0 million liability was recorded in contingent consideration under RPAs, AAAs, and CPPAs and a corresponding $3.0 million asset was recorded under short-term royalty and commercial payment receivables on the condensed consolidated balance sheet.

The liability for future Aronora Royalty Milestones, Kuros Sales Milestones, remaining Affitech Sales Milestones and LadRx commercial sales milestone will be recorded when the amounts, by product, are estimable and probable.

As of March 31, 2024, none of the Aronora Royalty Milestones, Kuros Sales Milestones, remaining Affitech Sales Milestone and LadRx commercial sales milestone were assessed to be probable and as such, no liability was recorded on the condensed consolidated balance sheet.

11. Stock Based Compensation

The Company may grant qualified and non-qualified stock options, common stock, PSUs and other stock-based awards under various plans to directors, officers, employees and other individuals. Stock options are granted at exercise prices of not less than the fair market value of the Company's common stock on the date of grant. Additionally, the Company has an ESPP that allows employees to purchase Company shares at a purchase price equal to 85% of the lower of the fair market value of the Company's common stock on the first trading day of the offering period or on the last day

of the purchase period. The ESPP includes a rollover mechanism for the purchase price if the fair market value of the Company's common stock on the purchase date is less than the fair market value of the Company's common stock on the first trading day of the offering period.

Stock Options and Other Benefit Plans

Stock Option Plans

2010 Plan Stock Options

Stock options issued under the 2010 Plan generally vest monthly over three years for employees and one year for directors. Stock options held by employees who qualify for retirement age (defined as employees that are a minimum of 55 years of age and the sum of their age plus years of full-time employment with the Company exceeds 70 years) vest on the earlier of scheduled vest date or the date of retirement. No stock options were granted under the 2010 Plan during the three months ended March 31, 2024 and 2023.

Stock Option Inducement Awards

On December 30, 2022, the Board appointed Owen Hughes as Executive Chairman of the Board and Interim Chief Executive Officer and Bradley Sitko as the Company's Chief Investment Officer, effective as of January 1, 2023. Pursuant to the terms of their respective employment agreements, Mr. Hughes and Mr. Sitko were each granted two separate awards of non-qualified stock options on January 3, 2023 (collectively, the "Stock Option Inducement Awards") when the Company's stock price was $18.66 per share.

The Stock Option Inducement Awards were granted to Mr. Hughes and Mr. Sitko outside the 2010 Plan as an inducement material to entering into their respective employment with the Company in accordance with Nasdaq Listing Rule 5635(c)(4) but are subject to the terms and conditions of the 2010 Plan. More information on the Stock Option Inducement Awards granted during the three months ended March 31, 2023 can be found in Note 10 of the Company's Annual Report on Form 10-K for the year ended December 31, 2023, filed with the SEC on March 8, 2024.

The weighted-average grant-date fair value per share of options granted to Mr. Hughes and Mr. Sitko at an exercise price of $18.66 per share during the first quarter of 2023 was $11.91. The weighted-average grant-date fair value per share of options granted to Mr. Hughes and Mr. Sitko at an exercise price of $30.00 per share during the first quarter of 2023 was $14.68. No Stock Option Inducement Awards were granted during the three months ended March 31, 2024.

The activity for all stock options for the three months ended March 31, 2024 was as follows:

	Number of shares	Weighted Average Exercise Price Per Share	Weighted Average Contractual Remaining Term (in years)	Aggregate Intrinsic Value (in thousands)
Outstanding at January 1, 2024	2,730,068	$ 20.88	6.29	$ 10,638
Granted	—	—		
Exercised	(134,959)	4.61		
Forfeited, expired or cancelled	(26,014)	178.20		
Outstanding at March 31, 2024	2,569,095	$ 20.15	6.27	$ 17,723
Exercisable at March 31, 2024	2,009,056	$ 19.12	5.60	$ 16,131

The aggregate intrinsic value of stock options exercised during the three months ended March 31, 2024 was $2.5 million. No stock options were exercised during the three months ended March 31, 2023.

The Company recorded $1.1 million in stock-based compensation expense related to stock options during the three months ended March 31, 2024. As of March 31, 2024, $7.0 million of total unrecognized compensation expense related to stock options was expected to be recognized over a weighted average period of 2.4 years.

Performance Stock Unit Awards

In May 2023, the Company granted employees 430,400 PSUs under the 2010 Plan.

The PSUs are subject to market-based vesting conditions and the number of PSUs vested will be based on the stock price of the Company's common stock as compared to four stock price hurdles over a three-year period from the May 2023 grant date (the "performance period"). A stock price hurdle is considered attained when, at any time during the performance period, the Company's volume-weighted average stock price equals or exceeds the hurdle stock price value for 30 consecutive calendar days. Upon attainment of a stock price hurdle, one third of the earned PSUs will vest immediately upon achievement, one third will vest upon the two-year anniversary of the grant date and one third will vest on the three-year anniversary of the grant date. If no stock price hurdle is attained during the performance period, then no PSUs will vest. In October 2023, the Company granted an additional 18,200 PSUs under the 2010 Plan with generally the same terms as the May 2023 PSU grants.

In connection with Mr. Hughes' appointment to full-time Chief Executive Officer in January 2024, the Company granted Mr. Hughes 275,000 PSUs under the 2010 Plan with generally the same terms as the May 2023 PSU grants.

Fair Value Assumptions of Performance Stock Unit Awards

The fair value of the PSUs granted was estimated based on Monte Carlo valuation model which incorporates into the valuation the possibility that the stock price hurdles may not be satisfied.

The range of grant date fair values of the PSUs granted in 2023 was estimated as follows:

Hurdle Price Per PSU	Number of PSUs	Fair Value Per Share	Derived Service Period (in years)
$ 30.00	243,550	$ 11.42-17.45	0.69-2.59
$ 35.00	91,239	$ 10.16-16.07	0.93-2.59
$ 40.00	60,024	$ 9.07-14.84	1.12-2.59
$ 45.00	53,787	$ 8.12-13.72	1.27-2.59
	448,600		

The grant date fair values of the PSUs granted in January 2024 was estimated as follows:

Hurdle Price Per Share	Number of PSUs	Fair Value Per Share	Derived Service Period (in years)
$ 30.00	160,078	$ 18.42	0.74
$ 35.00	53,350	$ 17.24	0.96
$ 40.00	32,835	$ 16.14	1.15
$ 45.00	28,737	$ 15.13	1.31
	275,000		

The Company estimates that it will recognize total stock-based compensation expense of approximately $11.7 million in aggregate for the PSUs granted in May 2023, October 2023 and January 2024 using the graded expense attribution method over the requisite service period of each tranche. If the stock price hurdles are met sooner than the requisite service period, the stock-based compensation expense for the respective stock price hurdle will be accelerated.

Stock-based compensation expense will be recognized over the requisite service period if the grantees continue to provide service to the Company, regardless of whether the PSU stock price hurdles are achieved.

The activity for all PSUs for the three months ended March 31, 2024 was as follows:

	Number of Unvested PSUs	Weighted Average Grant Date Fair Value Per Share
Unvested balance at January 1, 2024	448,600	$ 15.40
Granted	275,000	17.58
Vested	—	—
Forfeited	—	—
Unvested balance at March 31, 2024	723,600	$ 16.23

The Company recorded $1.8 million in stock-based compensation expense related to the PSUs during the three months ended March 31, 2024. As of March 31, 2024, there was $7.1 million unrecognized stock-based compensation expense related to outstanding PSUs granted to employees, with a weighted-average remaining recognition period of 1.13 years.

Stock-based Compensation Expense

All stock-based compensation expense is recorded in G&A expense. The following table shows total stock-based compensation expense for stock options, PSUs and ESPP in the condensed consolidated statements of operations and comprehensive loss (in thousands):

	Three Months Ended March 31,	
	2024	2023
Total stock-based compensation expense included in G&A	$ 2,856	$ 1,570

12. Capital Stock

Dividends

During the three months ended March 31, 2024, the Board declared and paid cash dividends on the Company's Series A Preferred Stock and Series B Depositary shares as follows:

Dividend Declaration Date	Series A Preferred Stock Cash Dividend Declared ($ per share)	Series B Depositary Share Cash Dividend Declared ($ per share)	Dividend Payment Date
October 18, 2023	$ 0.53906	$ 0.52344	January 15, 2024
February 21, 2024	$ 0.53906	$ 0.52344	April 15, 2024

BVF Ownership

As of March 31, 2024, BVF owned approximately 31.2% of the Company's total outstanding shares of common stock, and if all the Series X Convertible Preferred Stock were converted (without taking into account beneficial ownership limitations), BVF would own 51.9% of the Company's total outstanding shares of common stock. The Company's Series A Preferred Stock becomes convertible upon the occurrence of specific events and as of March 31, 2024, the contingency was not met, therefore the Series A Preferred Stock owned by BVF is not included in the as-converted ownership calculation. Due to its significant equity ownership, BVF is considered a related party of the Company.

2018 Common Stock ATM Agreement

On December 18, 2018, the Company entered into the 2018 Common Stock ATM Agreement with HCW, under which the Company may offer and sell from time to time at its sole discretion shares of its common stock through HCW as its sales agent, in an aggregate amount not to exceed $30.0 million. HCW may sell the shares by any method permitted by law deemed to be an "at the market" offering as defined in Rule 415 of the Securities Act and will use its commercially reasonable efforts consistent with its normal trading and sales practices to sell the shares up to the amount specified. The Company will pay HCW a commission of up to 3% of the gross proceeds of any shares of common stock sold under the 2018 Common Stock ATM Agreement. On March 10, 2021, the Company amended the 2018 Common Stock ATM Agreement with HCW to increase the aggregate amount of shares of its common stock that it could sell through HCW as its sales agent to $50.0 million. No shares have been sold under the 2018 Common Stock ATM Agreement since the agreement was executed.

2021 Series B Preferred Stock ATM Agreement

On August 5, 2021, the Company entered into the 2021 Series B Preferred Stock ATM Agreement with B. Riley, under which the Company may offer and sell from time to time, at its sole discretion, through or to B. Riley, as agent or principal an aggregate amount not to exceed $50.0 million of its Series B Depositary Shares. B. Riley may sell the shares by any method permitted by law deemed to be an "at the market" offering as defined in Rule 415 of the Securities Act and will use its commercially reasonable efforts consistent with its normal trading and sales practices to sell the shares up to the amount specified. The Company will pay B. Riley a commission of up to 3% of the gross proceeds of any Series B Depositary Shares sold under the 2021 Series B Preferred Stock ATM Agreement. No shares have been sold under the 2021 Series B Preferred Stock ATM Agreement since the agreement was executed.

Stock Repurchase Program

On January 2, 2024, the Board authorized the Company's first stock repurchase program, which permits the Company to purchase up to $50.0 million of its common stock through January 2027. Under the program, the Company has discretion in determining the conditions under which shares may be purchased from time to time, including through transactions in the open market, in privately negotiated transactions, under plans compliant with Rule 10b5-1 under the Exchange Act, or by other means in accordance with applicable laws. The manner, number, price, structure, and timing of the repurchases, if any, will be determined at the Company's sole discretion and repurchases, if any, depend on a variety of factors, including legal requirements, price and economic and market conditions, royalty and milestone acquisition opportunities, and other factors. The repurchase authorization does not obligate the Company to acquire any particular amount of its common stock. The Board may suspend, modify, or terminate the stock repurchase program at any time without prior notice. As of March 31, 2024, the Company had purchased a total of 660 shares of its common stock pursuant to the stock repurchase plan for $13,000.

13. Income Taxes

No provision was made for federal income taxes, since the Company incurred net operating losses during the three months ended March 31, 2024 and 2023. The Company continues to maintain a full valuation allowance against its remaining net deferred tax assets.

The Company had a total of $5.9 million of gross unrecognized tax benefits as of March 31, 2024, none of which would affect the effective tax rate upon realization as it currently has a full valuation allowance against its net deferred tax assets. The reversal of related deferred tax assets will be offset by a valuation allowance, should any of these uncertain tax positions be favorably settled in the future.

The Company does not expect its unrecognized tax benefits to change significantly over the next twelve months. The Company will recognize interest and penalties accrued on any unrecognized tax benefits as a component of income tax expense. Through March 31, 2024, the Company had not accrued interest or penalties related to uncertain tax positions.

14. Subsequent Events

Kinnate Acquisition

On February 16, 2024, the Company entered into an Agreement and Plan of Merger with Kinnate and XRA, a Delaware corporation and a wholly-owned subsidiary of the Company, pursuant to which the Company acquired Kinnate through a tender offer for (i) $2.5879 in cash per share of Kinnate common stock, plus (ii) one non-transferable contractual contingent value right ("CVR") per share of Kinnate common stock. The merger closed on April 3, 2024 (the "Merger Closing Date"), and XRA merged with and into Kinnate. Following the merger, Kinnate continued as the surviving corporation in the merger and a wholly owned subsidiary of the Company.

Each Kinnate CVR represents the right to receive potential payments pursuant to the terms and subject to the conditions of the Contingent Value Rights Agreement, dated April 3, 2024 (the "CVR Agreement"), by and among the Company, XRA, a right agent and a representative of the CVR holders. On February 27, 2024, Kinnate sold exarafenib and related IP to Pierre Fabre Medicament, SAS for an upfront cash consideration of $0.5 million and contingent consideration of $30.5 million upon the achievement of certain specified milestones. Kinnate CVR holders will be entitled to 100% of any further net proceeds from this transaction, if any, until the fifth anniversary of the Merger Closing Date, together with 85% of net proceeds, if any, from any license or other disposition of any or all rights to any product, product candidate or research program active at Kinnate as of the closing that occurs within one year of the Merger Closing Date, in each case subject to and in accordance with the terms of the CVR Agreement.

FDA Approval of OJEMDA

On April 23, 2024, Day One announced that the FDA granted approval to Day One's NDA for OJEMDA (tovorafenib). Pursuant to the Viracta RPA, the Company earned a $9.0 million milestone payment upon FDA approval and is also eligible to receive mid-single-digit royalties on sales of OJEMDA.

Daré Royalty Purchase Agreements

On April 29, 2024, the Company entered into the Daré RPAs. Pursuant to the terms of the Daré RPAs, the Company paid $22.0 million in cash to Daré in consideration for the sale of (a) 100% of all remaining royalties related to XACIATO™ not already subject to the royalty-backed financing agreement Daré entered into in December 2023 and net of payments owed by Daré to upstream licensors, which equates to royalties ranging from low to high single digits, and of all potential commercial milestones related to XACIATO™ that are payable to Daré under that certain Exclusive License Agreement by and between Daré and Organon, dated March 31, 2022, as amended; (b) a 4% synthetic royalty on net sales of OVAPRENE® and a 2% synthetic royalty on net sales of Sildenafil Cream, 3.6%, which will decrease to 2.5% and 1.25%, respectively, upon the Company achieving a pre-specified return threshold; and (c) a portion of Daré's right to a certain milestone payment that may become payable to Daré under that certain License Agreement between Daré and Bayer HealthCare LLC, dated January 10, 2020. The Daré RPAs also provide for certain milestone payments from the Company to Daré upon achieving a pre-specified return threshold, subject to the terms of the Daré RPAs.

Rezolute Milestone

In April 2024, Rezolute dosed the first patient in its Phase 3 trial of RZ358 and the Company earned a $5.0 million milestone pursuant to our Rezolute License Agreement.

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ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

Forward Looking Statements

This Quarterly Report on From 10-Q contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, (the "Securities Act"), Section 21E of the Securities Exchange Act of 1934, as amended, (the "Exchange Act"), and the Private Securities Litigation Reform Act of 1995, which are subject to the "safe harbor" created by those sections. Forward-looking statements are based on current expectations, estimates and forecasts, as well as our management's beliefs and assumptions and on information currently available to them, and are subject to risks and uncertainties that are difficult to predict. In some cases you can identify forward-looking statements by words such as "may," "will," "should," "might," "could," "would," "expects," "plans," "anticipates," "believes," "estimates," "projects," "predicts," "potential," "intend" "goal," "strategy," "continue," "design" and similar words, expressions or the negative of such terms intended to identify forward-looking statements. Examples of these statements include, but are not limited to, statements regarding: trend analyses and statements regarding future events, future financial performance, anticipated growth, and industry prospects, our future operating expenses, our future losses, the success of our strategy as a royalty aggregator, the assumptions underlying our business model, the extent to which issued and pending patents may protect the products and processes in which we have an ownership or royalty interest and prevent the use of the covered subject matter by third parties, the potential of our existing product candidates to lead to the development of commercial products, our ability to receive potential milestone or royalty payments under license and collaboration agreements and the amount and timing of receipt of those payments, our ability to locate suitable assets to acquire, our ability to complete (on a timely basis or at all) and realize the benefits from acquisitions, uncertainties related to the acquisition of interest in development-stage and clinical-stage product candidates, fluctuations in, our ability to predict our operating results and cash flows, and the sufficiency of our capital resources. Forward-looking statements are based on assumptions that may not prove accurate. Actual results could differ materially from those anticipated due to certain risks inherent in the biotechnology industry and for our licensees engaged in the development of new products in a regulated market. Among other things: there can be no assurance that our revenues or expenses will meet any expectations or follow any trend(s); we may be unable to retain our key employees; litigation, arbitration or other disputes with third parties may have a material adverse effect on us; our product candidates subject to our out-license agreements are still being developed, and our licensees' may require substantial funds to continue development which may not be available; we may not be successful in entering into out-license agreements for our product candidates; if our therapeutic product candidates do not receive regulatory approval, our third-party licensees will not be able to manufacture and market them; products or technologies of other companies may render some or all of our product candidates noncompetitive or obsolete; we do not know whether there will be, or will continue to be, a viable market for the products in which we have an ownership or royalty interest; even once approved, a product may be subject to additional testing or significant marketing restrictions, its approval may be withdrawn or it may be voluntarily taken off the market; and we and our licensees are subject to various state and federal healthcare related laws and regulations that may impact the commercialization of our product candidates and could subject us to significant fines and penalties. These and other risks, and uncertainties that may cause our actual results or outcomes to differ materially and adversely from those expressed in our forward-looking statements, including those related to current economic and financial market conditions, are contained principally in Part I, Item 1A of our Annual Report on Form 10-K for the year ended December 31, 2023, Part II, Item 1A of this Quarterly Report on Form 10-Q and in our other filings with the SEC.

Forward-looking statements are inherently uncertain and you should not place undue reliance on these statements, which speak only as of the date that they were made. These cautionary statements should be considered in connection with any written or oral forward-looking statements that we may issue in the future. Except as required by law, we do not undertake any obligation to revise or update publicly any forward-looking statements after completion of the filing of this Quarterly Report on Form 10-Q to reflect later events or circumstances or to reflect the occurrence of unanticipated 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 on information available to us as of the date of this Quarterly Report on Form 10-Q. While we believe that information provides a reasonable basis for these statements, that information may be limited or incomplete. Our statements should not be read to indicate that we have conducted an exhaustive inquiry into, or review

of, all relevant information. These statements are inherently uncertain, and investors are cautioned not to unduly rely on these statements.

All references to "portfolio" in this Quarterly Report on Form 10-Q are to milestone and/or royalty rights associated with a basket of product candidates in development.

We use our trademarks, trade names and services marks in this report as well as trademarks, trade names and service marks that are the property of other organizations. Solely for convenience, trademarks and trade names referred to in this report appear without the ® and ™ symbols, but those references are not intended to indicate, in any way, that we will not assert, to the fullest extent under applicable law, our rights or that the applicable owner will not assert its rights, to these trademarks and trade names.

The following discussion and analysis should be read in conjunction with the unaudited financial statements and notes thereto included in Part I, Item 1 of this Quarterly Report on Form 10-Q and with the audited consolidated financial statements and related notes thereto included as part of our Annual Report on Form 10-K for the year ended December 31, 2023.

Overview

XOMA is a biotech royalty aggregator. We have a sizable portfolio of economic rights to future potential milestone and royalty payments associated with partnered commercial and pre-commercial therapeutic candidates. Our portfolio was built through the acquisition of rights to future milestones, royalties and commercial payments, since our royalty aggregator business model was implemented in 2017, combined with out-licensing our proprietary products and platforms from our legacy discovery and development business. Our royalty aggregator business is primarily focused on early to mid-stage clinical assets, primarily in Phase 1 and 2, with significant commercial sales potential that are licensed to large-cap partners. We also acquire milestone and royalty revenue streams on late-stage clinical assets and commercial assets that are designed to address unmet markets or have a therapeutic advantage, have long duration of market exclusivity, and are expected to deliver a financial return to us in a short timeframe. We expect most of our future revenue to be based on payments we may receive for milestones and royalties associated with these programs.

The generation of future revenues related to licenses, milestone payments, and royalties is dependent on the achievement of milestones or product sales by our existing licensees. We generated a net loss of $8.6 million and net cash used in operating activities was $4.9 million for the three months ended March 31, 2024, and we had an accumulated deficit of $1.2 billion as of March 31, 2024. We generated a net loss of $40.8 million and net cash used in operating activities was $18.2 million for the year ended December 31, 2023.

Recent Business Developments

Kinnate Acquisition

In February 2024, we entered into Agreement and Plan of Merger with Kinnate and XRA pursuant to which we acquired Kinnate through a tender offer for (i) $2.5879 in cash per share of Kinnate common stock plus (ii) one non-transferable contingent value right ("CVR") per share of Kinnate common stock. The merger closed on April 3, 2024 (the "Merger Closing Date"), and XRA merged with and into Kinnate. Following the merger, Kinnate continued as the surviving corporation in the merger and our wholly owned subsidiary.

Each Kinnate CVR represents the right to receive potential payments pursuant to the terms and subject to the conditions of the Contingent Value Rights Agreement, dated April 3, 2024 (the "CVR Agreement"), by and among the Company, XRA, a right agent and a representative of the CVR holders. In February 2024, Kinnate sold exarafenib and related IP to Pierre Fabre Medicament, SAS for an upfront cash consideration of $0.5 million and contingent consideration of $30.5 million upon the achievement of certain specified milestones. Kinnate CVR holders will be entitled to 100% of any further net proceeds from this transaction, if any, until the fifth anniversary of the Merger Closing Date, together with 85% of net proceeds, if any, from any license or other disposition of any or all rights to any product, product candidate or

research program active at Kinnate as of the closing that occurs within one year of the Merger Closing Date, in each case subject to and in accordance with the terms of the CVR Agreement.

Owen Hughes Appointed as Chief Executive Officer

In January 2024, our Board appointed Owen Hughes as our Chief Executive Officer (Principal Executive Officer) and Jack L. Wyszomierski as Chairman of our Board. Mr. Hughes previously served as our Executive Chairman and Interim Chief Executive Officer beginning on January 1, 2023.

Stock Repurchase Program

On January 2, 2024, our Board authorized our first stock repurchase program, which permits us to purchase up to $50.0 million of our common stock through January 2027. Under the program, we have discretion in determining the conditions under which shares may be purchased from time to time, including through transactions in the open market, in privately negotiated transactions, under plans compliant with and Rule 10b5-1 under the Exchange Act, as part of or by other means in accordance with applicable laws. The manner, number, price, structure, and timing of the repurchases, if any, will be determined at our sole discretion and repurchases, if any, depend on a variety of factors, including legal requirements, price and economic and market conditions, royalty and milestone acquisition opportunities, and other factors. The repurchase authorization does not obligate us to acquire any particular amount of our common stock. The Board may suspend, modify, or terminate the stock repurchase program at any time without prior notice. As of March 31, 2024, we had purchased a total of 660 shares of our common stock pursuant to the stock repurchase program for $13,000.

Portfolio Updates – Royalty and Commercial Payment Purchase Agreements

Daré Royalty Purchase Agreements

On April 29, 2024, we entered into the Daré RPAs, pursuant to which we paid $22.0 million in cash to Daré in consideration for the sale of (a) 100% of all remaining royalties related to XACIATO™ not already subject to the royalty-backed financing agreement Daré entered into in December 2023 and net of payments owed by Daré to upstream licensors, which equates to royalties ranging from low to high single digits, and of all potential commercial milestones related to XACIATO™ that are payable to Daré under that certain Exclusive License Agreement by and between Daré and Organon, dated March 31, 2022, as amended; (b) a 4% synthetic royalty on net sales of OVAPRENE® and a 2% synthetic royalty on net sales of Sildenafil Cream, 3.6%, which will decrease to 2.5% and 1.25%, respectively, upon us achieving a pre-specified return threshold; and (c) a portion of Daré's right to a certain milestone payment that may become payable to Daré under that certain License Agreement between Daré and Bayer HealthCare LLC, dated January 10, 2020. The Daré RPAs also provide for certain milestone payments from us to Daré upon achieving a pre-specified return threshold, subject to the terms of the Daré RPAs.

Viracta Royalty Purchase Agreement

In April 2024, Day One announced that the FDA granted approval to Day One's NDA for OJEMDA (tovorafenib). Pursuant to the Viracta RPA, we earned a $9.0 million milestone payment and we are also eligible to receive mid-single-digit royalties on net sales of OJEMDA.

Talphera Commercial Payment Purchase Agreement

In January 2024, we acquired an economic interest in DSUVIA from Talphera for $8.0 million. DSUVIA was approved in 2018 by the FDA for use in adults in certified medically supervised healthcare settings. In April 2023, Talphera divested DSUVIA to Alora for an upfront payment, a 15% royalty on commercial net sales of DSUVIA and up to $116.5 million in sales-based milestone payments under the Talphera APA. In addition, Talphera is entitled to 75% of net sales of DSUVIA to the DoD for its services performed to support sales of DSUVIA to the DoD under the Talphera Marketing Agreement. Under the terms of the agreement, we are entitled to receive (i) 100% of the 15% royalty on commercial net sales and the sales-based milestones related to net sales of DSUVIA, as adjusted, for sales on and after January 1, 2024, and (ii) 100% of Talphera's future service revenue in the amount of 75% of net sales of DSUVIA to the DoD until we

receive $20.0 million. Thereafter, we will fully retain the 15% royalty on commercial net sales of DSUVIA and will share equally with Talphera the 75% of net sales of DSUVIA to the DoD and the remaining sales-based milestone payments due from Alora.

Affitech Commercial Payment Purchase Agreement

Pursuant to our Affitech CPPA, we are eligible to receive commercial payments under the agreement from Roche consisting of 0.5% of net sales of VABYSMO for a ten-year period following the first commercial sale in each applicable jurisdiction. In 2022, VABYSMO was approved by the FDA and the EMA for the treatment of wet, or neovascular, age-related macular degeneration and diabetic macular edema. In October 2023, the FDA approved VABYSMO for the treatment of retinal vein occlusion. Payments are due from Roche within 60 days of December 31 and June 30 of each year.

In February 2024, we received $7.4 million representing our commercial payment received from sales of VABYSMO during the last six months of 2023 under the Affitech CPPA. We used these cash receipts to fund contractual interest payments and partially repay the principal balance on our Blue Owl Loan (see Note 8 of the condensed consolidated financial statements).

Based on net sales of VABYSMO in 2023, we paid Affitech sales milestones totaling $6.0 million in March 2024, and we may pay up to an additional $6.0 million in milestones based on the achievement of certain sales thresholds in future periods.

LadRx Agreements

In January 2024, Zevra announced that the FDA accepted its NDA resubmission for arimoclomol and pursuant to the LadRx Agreement**s**, we made a $1.0 million milestone payment to LadRx in January 2024.

Portfolio Updates – License and Collaboration Agreements

Rezolute License Agreement

In April 2024, Rezolute dosed the first patient in its Phase 3 trial of RZ358 and we earned a $5.0 million milestone pursuant to our Rezolute License Agreement.

Critical Accounting Estimates

The preparation of financial statements in accordance with GAAP requires us to make estimates, assumptions and judgments that affect the reported amounts of assets, liabilities, revenues and expenses, and related disclosures of contingent assets and liabilities. We routinely evaluate our estimates. We base our estimates on historical experience and on various other assumptions that we believe to be reasonable under the circumstances, the results of which form our basis for making judgments about the carrying values of assets and liabilities and the reported amounts of revenues and expenses that are not readily apparent from other sources. Actual results may differ from those estimates under different assumptions and conditions.

Critical accounting estimates are those estimates that involve a significant level of judgment and/or estimation uncertainty and could have or are reasonably likely to have a material impact on our financial condition or results of operations.

There have been no significant changes in our critical accounting estimates during the three months ended March 31, 2024, as compared with those previously disclosed in our Annual Report on Form 10-K for the year ended December 31, 2023, filed with the SEC on March 8, 2024.

Our significant accounting policies are included in “Note 2 – Basis of Presentation and Significant Accounting Policies” in our condensed consolidated financial statements.

Results of Operations

Revenues

Total revenues for the three months ended March 31, 2024 and 2023, were as follows (in thousands):

	Three Months Ended March 31,		
	2024	2023	Change
Revenue from contracts with customers	$ 1,000	$ —	$ 1,000
Revenue recognized under units-of-revenue method	490	437	53
Total revenues	$ 1,490	$ 437	$ 1,053

Revenue from Contracts with Customers

Revenue from contracts with customers includes upfront fees, annual license fees and milestone payments related to the out-licensing of our legacy product candidates and technologies. Revenue from contracts with customers for the three months ended March 31, 2024 included milestone payments of $1.0 million pursuant to our license agreement with AVEO. There was no revenue from contracts with customers for the three months ended March 31, 2023.

Revenue Recognized under Units-of-Revenue Method

Revenue recognized under the units-of-revenue method includes the amortization of unearned revenue from the sale of royalty interests to HCRP in 2016. Revenues for the three months ended March 31, 2024 remained consistent with the same period in 2023 due to comparable sales of products underlying the agreements with HCRP.

R&D Expenses

R&D expenses were $33,000 for the three months ended March 31, 2024, compared with $54,000 for the three months ended March 31, 2023. Upon the closing our merger with Kinnate, we assumed operations of Kinnate's Phase 1 clinical trial of KIN-3248. Few patients remain in the study; however, we expect to incur increased R&D costs during 2024 until the study is completed. We may also incur additional R&D costs related to stability studies and storage of the remaining programs transferred through our Kinnate acquisition.

G&A Expenses

G&A expenses include salaries and related personnel costs, professional fees, and facilities costs. For the three months ended March 31, 2024, G&A expenses were $8.5 million compared with $6.2 million for the three months ended March 31, 2023. The increase of $2.3 million was primarily due to a $1.3 million increase in stock-based compensation and a $0.7 million increase in consulting and legal expenses. The increase in stock-based compensation expenses was largely due to the PSU grant associated with the appointment of Mr. Hughes as our full-time Chief Executive Officer in January 2024 combined with PSUs granted in May 2023. We expect G&A expenses to further increase in 2024 due to an anticipated increase in activity related to our evaluation of potential royalty acquisitions and anticipated costs associated with our Kinnate acquisition.

Arbitration Settlement Costs

Arbitration settlement costs of $4.1 million for the three months ended March 31, 2023 consisted of the costs incurred related to the settlement of an arbitration proceeding with one of our licensees in the first quarter of 2023. There were no arbitration settlement costs for the three months ended March 31, 2024.

Other Income (Expense)

Interest Expense

The accretion of debt discount and debt issuance costs is included in interest expense. Interest expense is shown below for the three months ended March 31, 2024 and 2023 (in thousands):

	Three Months Ended March 31,		
	2024	2023	Change
Accrued interest expense	$ 3,245	$ —	$ 3,245
Accretion of debt discount and debt issuance costs	306	—	306
Total interest expense	$ 3,551	$ —	$ 3,551

We had no debt outstanding or interest expense incurred until we executed the Blue Owl Loan Agreement on December 15, 2023. The $3.6 million interest expense for the three months ended March 31, 2024 represents interest incurred on the Blue Owl Loan since December 31, 2023. Interest expense is expected to continue in future quarters so long as the Blue Owl Loan remains outstanding.

Other Income (Expense), Net

The following table shows our activity in other income (expense), net for the three months ended March 31, 2024 and 2023 (in thousands):

	Three Months Ended March 31,		
	2024	2023	Change
Other income (expense), net			
Investment income	$ 1,708	$ 381	$ 1,327
Change in fair value of equity securities	252	(24)	276
Total other income (expense), net	$ 1,960	$ 357	$ 1,603

Investment income increased by $1.3 million for the three months ended March 31, 2024 compared with the three months ended March 31, 2023 due to higher balances and higher market interest rates on our investments. For the three months ended March 31, 2024 and 2023, the change in fair value of equity securities was due to the change in market price of shares of Rezolute's common stock.

Provision for Income Taxes

We recorded no provision for federal income tax, since we incurred net operating losses during the three months ended March 31, 2024 and 2023. We continue to maintain a full valuation allowance against our remaining net deferred tax assets. We had a total of $5.9 million of gross unrecognized tax benefits, none of which would impact our effective tax rate to the extent that we continue to maintain a full valuation allowance against our deferred tax assets. We do not expect our unrecognized tax benefits to change significantly over the next twelve months.

Liquidity and Capital Resources

The following table summarizes our cash and cash equivalents, our working capital and our cash flow activities as of and for each of the periods presented (in thousands):

	March 31, 2024	December 31, 2023	Change
Cash and cash equivalents[1]	$ 136,225	$ 153,290	$ (17,065)
Working capital	$ 131,350	$ 149,814	$ (18,464)

(1) Unrestricted.

	Three Months Ended March 31,		
	2024	2023	Change
Net cash used in operating activities	$ (4,947)	$ (4,924)	$ (23)
Net cash used in investing activities	(7,246)	(7,234)	(12)
Net cash used in financing activities	(4,956)	(1,368)	(3,588)
Net decrease in cash, cash equivalents and restricted cash	$ (17,149)	$ (13,526)	$ (3,623)

Net cash used in operating activities for the three months ended March 31, 2024 was $4.9 million and primarily consisted of our operating expenses of $8.5 million partially offset by non-cash expenses of $3.0 million, which primarily consisted of stock-based compensation expense of $2.9 million, and a $1.0 million milestone payment received pursuant to our license agreement with AVEO. Net cash used in operating activities for the three months ended March 31, 2023 was $4.9 million and primarily consisted of our operating expenses of $10.6 million, partially offset by non-cash expenses of $2.0 million, which primarily consisted of stock-based compensation expense of $1.6 million, offset by a $2.9 million change in assets and liabilities.

Net cash used in investing activities for the three months ended March 31, 2024 was $7.2 million, and primarily consisted of a $8.0 million payment to Talphera for the acquisition of payment rights pursuant to the Talphera CPPA in January 2024, a $6.0 million payment to Affitech for sales milestones pursuant to the Affitech CPPA in January 2024 and a $1.0 million payment to LadRx for the achievement of a regulatory milestone pursuant to the LadRx Agreements in January 2024, partially offset by a $7.4 million commercial payment received from Roche pursuant to the Affitech CPPA and a $0.4 million commercial payment received pursuant to the Aptevo CPPA. Net cash used in investing activities for the three months ended March 31, 2023 was $7.2 million, and primarily consisted of $9.6 million for the acquisition of payment rights pursuant to the Aptevo CPPA in March 2023, partially offset by a $2.4 million commercial payment received from Roche pursuant to the Affitech CPPA.

Net cash used in financing activities for the three months ended March 31, 2024 was $5.0 million and primarily consisted of principal payments of $3.6 million on the Blue Owl Loan, dividends of $1.4 million on our Series A and Series B Preferred Stock, and $0.6 million in debt issuance costs and loan fees paid in connection with long-term debt partially offset by $0.6 million in proceeds from the exercise of options, net of taxes paid. Net cash used in financing activities for the three months ended March 31, 2023 was $1.4 million, and consisted of dividends on our Series A and Series B Preferred Stock.

Capital Resources

We have incurred significant operating losses since our inception and as of March 31, 2024, we had an accumulated deficit of $1.2 billion. As of March 31, 2024, we had $136.2 million in cash and cash equivalents and $6.2 million in restricted cash. Based on our current cash balance and our planned discretionary spending, such as royalty acquisitions, we believe that our current financial resources are sufficient to fund our planned operations, commitments, and contractual obligations for a period of at least one year following the filing date of this report.

We have primarily financed our operations and acquisitions through debt facilities, the issuance of our common stock, Series A and Series B Preferred Stock, and amounts received as milestone payments under our license agreements. In December 2023, XRL entered into the Blue Owl Loan Agreement (see Note 8 to the condensed consolidated financial statements and further details below in "Long-Term Debt"). We intend to use the net cash received from the Blue Owl Loan, together with our existing capital resources, to fund our ongoing operations, to repurchase common stock and for working capital and other general corporate purposes.

The generation of future revenues related to licenses, milestone payments, and royalties is dependent on the achievement of milestones or product sales by our existing licensees. Milestone payments earned in prior periods are not indicative of anticipated milestone payments in future periods. We may seek additional capital through our 2018 Common Stock ATM Agreement or our 2021 Series B Preferred Stock ATM Agreement (see Note 12 to the condensed consolidated financial statements), or through other public or private debt or equity transactions. Our ability to raise additional capital in the equity and debt markets, should we choose to do so, is dependent on a number of factors, including, but not limited to, the market demand for our common and preferred stock, which are subject to a number of development and business risks and uncertainties, our creditworthiness and whether were are able to raise such additional capital at a price or on terms that are favorable to us, if at all. If we are unable to raise additional funds when we need them, our business and operations may be adversely affected.

Material Cash Requirements

Our material cash requirements in the short and long term consist of the following:

Operating expenditures: Our primary uses of cash and our operating expenses include employee and related costs, consultant fees to support our administrative and business development efforts, legal and accounting fees, insurance costs and costs associated with our investor relations and IT services. Our planned spending includes increased personnel-related costs associated with the appointment of Mr. Hughes to Chief Executive Officer in a full-time capacity.

To support our royalty aggregator business model, we engage third parties to assist in the evaluation of potential acquisitions of milestone payments and royalty streams. Additional operating expenses, including consulting and legal costs, may increase in 2024 in response to an anticipated increase in the volume of acquisition targets evaluated or completed.

In June 2023 we entered into a lease for our headquarters in Emeryville, California. The lease commenced in November 2023 and has a term of 65 months. As of March 31, 2024, we expect to incur incremental undiscounted costs of $0.5 million associated with our building lease.

We will be required to make future R&D and G&A expenditures related to the obligations and liabilities we assumed in the Kinnate acquisition. We expect these costs to be funded in full by the cash we received upon close of the merger.

Share Repurchase Program: On January 2, 2024, our Board authorized our first stock repurchase program, which permits us to purchase up to $50.0 million of our common stock through January 2027. As of March 31, 2024, we had purchased a total of 660 shares of common stock pursuant to the stock repurchase program for $13,000.

Long-Term Debt: Under the Blue Owl Loan Agreement, the outstanding principal balance will bear interest at an annual rate of 9.875%. XRL began making payments of interest under the Blue Owl Loan Agreement semi-annually, in March 2024 using the royalties received on worldwide net sales of VABYSMO, pursuant to the Affitech CPPA. On each interest payment date, any shortfall in interest payment will be paid from the interest reserve, any uncured shortfall in interest payment that exceeds the interest reserve will increase the outstanding principal amount of the loan, and any royalty payments in excess of accrued interest on the loan will be used to repay the principal of the loan until the balance is fully repaid. As of March 31, 2024, XRL held restricted cash of $6.2 million in reserve accounts that may only be used to pay interest and administrative fees and XRL's operating expenses pursuant to the Blue Owl Loan Agreement. As of March 31, 2024, the current and non-current portion of the initial term loan was $6.1 million and $114.5 million, respectively, and $0.2 million and $6.0 million of the restricted cash is classified as current and non-current, respectively.

RPAs, AAAs and CPPAs: A significant component of our business model is to acquire rights to potential future milestone payments and royalty payment streams. We expect to continue deploying capital toward these acquisitions in the near and long term.

We have paid $1.0 million for a milestone payment due under our agreement with LadRx in January 2024 and $6.0 million for sales milestones due under our agreement with Affitech in March 2024. We have up to an additional $3.0 million and $5.0 million in milestone payments that may become due under the Affitech CPPA and LadRx Agreement, respectively. We currently have $3.0 million of contingent consideration recorded on our condensed consolidated balance sheets as of March 31, 2024.

In addition, we have potential sales-based milestone payments that may become due under our agreements with Aronora and Kuros. All of these milestones and royalty payments represent a portion of the funds we may receive in the future pursuant to these agreements, and therefore we expect these payments to be fully funded by the related royalty or commercial payment receipts.

Collaborative Agreements, Royalties and Milestone Payments: We may need to make potential future milestone payments and pay legal fees to third parties as part of our licensing and development programs. Payments under these agreements become due and payable only upon the achievement of certain developmental, regulatory and commercial milestones by our licensees. Because it is uncertain if and when these milestones will be achieved, such contingencies, aggregating up to $6.3 million (assuming one product per contract meets all milestone events) have not been recorded on our condensed consolidated balance sheet as of March 31, 2024. We are unable to determine precisely when and if our payment obligations under the agreements will become due as these obligations are based on milestone events, the achievement of which is subject to a significant number of risks and uncertainties. We expect all payments due to be funded by a portion of the related milestone or royalty revenue we receive or we expect these payments to be reimbursed by our licensees.

Dividends: Holders of our Series A Preferred Stock are entitled to receive, when and as declared by our Board, cumulative cash dividends at the rate of 8.625% of the $25.00 liquidation preference per year (equivalent to $2.15625 per share of Series A Preferred Stock per year). Holders of Series B Depositary Shares are entitled to receive, when and as declared by our Board, cumulative cash dividends at the rate of 8.375% of the $25,000 liquidation preference per share of Series B Preferred Stock ($25.00 per depositary share) per year, which is equivalent to $2,093.75 per year per share of Series B Preferred Stock ($2.09375 per year per depositary share). Dividends on the Series A and Series B Preferred Stock are payable in arrears on or about the 15th day of January, April, July and October of each year. Since original issuance, all dividends have been paid as scheduled. We expect to continue making these dividend payments as scheduled using our existing capital resources.

Changes in Commitments and Contingencies

Our commitments and contingencies were reported in our Annual Report on Form 10-K for the year ended December 31, 2023, as filed with the SEC and there have been no material changes during the three months ended March 31, 2024 from the commitment and contingencies previously disclosed in our Annual Report on Form 10-K for the year ended December 31, 2023.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

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

ITEM 4. CONTROLS AND PROCEDURES

Evaluation of Disclosure Controls and Procedures

Under the supervision and with the participation of our management, including our Chief Executive Officer (our Principal Executive Officer) and our Senior Vice President, Finance and Chief Financial Officer (our Principal Financial and Accounting Officer), we conducted an evaluation of our disclosure controls and procedures, as defined in Exchange Act Rules 13a-15(e) and 15d-15(e), as of the end of the period covered by this report. Our disclosure controls and procedures are intended to help ensure that the information we are required to disclose in the reports that we file or submit under the Exchange Act is (i) recorded, processed, summarized and reported within the time periods specified in the Securities and Exchange Commission's rules and forms and (ii) accumulated and communicated to our management, including our Chief Executive Officer and Senior Vice President, Finance and Chief Financial Officer, as appropriate to allow timely decisions regarding required disclosures. Based on this evaluation, our Chief Executive Officer and our Senior Vice President, Finance and Chief Financial Officer concluded that our disclosure controls and procedures were effective as of the end of the period covered by this report.

Changes in Internal Control Over Financial Reporting

There have been no changes in our internal control over financial reporting, as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act, that occurred during our most recent fiscal quarter that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

PART II – OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS

We are not currently engaged in any legal proceedings that, in the opinion of our management, if determined adversely to us, would individually or taken together, have a material adverse effect on our business, results of operations, financial position or cash flows. However, from time to time, we may become involved in litigation, arbitration or other proceedings relating to claims arising from the ordinary course of business.

We may become involved in material legal proceedings in the future, and the potential impact on us of any on-going proceeding which we do not currently believe to be material could become material. Such matters are subject to significant uncertainties, and there can be no assurance that any legal proceedings in which we are or may become involved will not have a material adverse effect on our business, results of operations, financial position or cash flows.

ITEM 1A. RISK FACTORS

Except as discussed below, there have been no material changes in our risk factors as previously disclosed in our Annual Report on Form 10-K for the fiscal year ended December 31, 2023. For a detailed description of our risk factors, refer to Part I, Item IA, "Risk Factors" of our Annual Report on Form 10-K for the fiscal year ended December 31, 2023.

Our potential milestone and royalty providers may rely on third parties to provide services in connection with their product candidate development and manufacturing programs. The inadequate performance by or loss of any of these service providers could affect our potential milestone and royalty providers' product candidate development.

Third parties provide services in connection with preclinical and clinical development programs, including in vitro and in vivo studies, assay and reagent development, immunohistochemistry, toxicology, pharmacokinetics, clinical trial support, manufacturing and other outsourced activities. If these service providers do not adequately perform the services for which our potential milestone and royalty providers have contracted, or cease to continue operations, and our potential milestone and royalty partners are not able to find a replacement provider quickly or lose information or items associated with their product candidates, our potential milestone and royalty providers' development programs and receipt of any potential resulting income may be delayed.

In addition, our potential milestone or royalty providers may currently or in the future rely on foreign contract research organizations ("CROs") and contract manufacturing organizations ("CMOs"). Such foreign CROs or CMOs may be subject to U.S. legislation, including the proposed BIOSECURE Bill, trade restrictions and other foreign regulatory requirements which could increase the cost or reduce the supply of material available to our potential milestone or royalty providers, delay the procurement or supply of such material, have an adverse effect on their ability to secure significant commitments from governments to purchase potential products or disrupt the supply chain. If our potential milestone or royalty providers are not able to secure supply of their products or product candidates as a result of the BIOSECURE Bill or other applicable legislation and fail to maintain timely progress on their clinical development programs, regulatory submissions or commercialization activities, they may be unable to deliver milestone or royalty payments to us in a timely manner or at all, and this could adversely affect our business, financial condition, results of operations and cash flows.

For example, the biopharmaceutical industry in China is strictly regulated by the Chinese government. Changes to Chinese regulations or government policies affecting biopharmaceutical companies are unpredictable and may have a material adverse effect on the collaborators of our potential milestone or royalty providers that operate in China, which, in turn, could have an adverse effect on such milestone or royalty providers and, in turn, our business, financial condition, results of operations and prospects. Evolving changes in China's public health, economic, political, and social conditions and the uncertainty around China's relationship with other governments, such as the United States and the U.K., could also negatively impact our potential milestone or royalty providers, including impacting their ability to manufacture products or product candidates, their ability to secure government funding or their ability to maintain timely progress on their clinical development programs, regulatory submissions or commercialization activities.

ITEM 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS

Unregistered Sales of Equity Securities

None.

Issuer Purchases of Equity Securities

On January 2, 2024, the Board authorized our first stock repurchase program, which permits us to purchase up to $50.0 million of our common stock through January 2027. Under the program, we have discretion in determining the conditions under which shares may be purchased from time to time, including through transactions in the open market, in privately negotiated transactions, under plans compliant with Rule 10b5-1 under the Exchange Act, or by other means in accordance with applicable laws. The manner, number, price, structure, and timing of the repurchases, if any, will be determined at our sole discretion and repurchases, if any, depend on a variety of factors, including legal requirements, price and economic and market conditions, royalty and milestone acquisition opportunities, and other factors. The repurchase authorization does not obligate us to acquire any particular amount of our common stock. The Board may suspend, modify, or terminate the stock repurchase program at any time without prior notice. All common stock repurchased by us during the three months ended March 31, 2024 was subsequently retired. Our repurchases of our common stock during the three months ended March 31, 2024 was as follows:

Period	Total Number of Shares Purchased [1]	Average Price Paid per Share [2]	Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs	Approximate Dollar Value of Shares that May Yet Be Purchased Under the Plans or Programs
January 2 – January 31, 2024	—	$ —	—	$ 50,000,000
February 1 – February 29, 2024	660	$ 19.88	660	$ 49,986,899
March 1 – March 31, 2024	—	$ —	—	$ 49,986,899
Total	660	$ 19.88	660	$ 49,986,899

(1) The number of shares purchased is based on the settlement date.
(2) Average price per share includes commissions.

ITEM 3. DEFAULTS UPON SENIOR SECURITIES

None.

ITEM 4. MINE SAFETY DISCLOSURES

Not applicable.

ITEM 5. OTHER INFORMATION

c) Trading Plans

During the fiscal quarter ended March 31, 2024, no director or Section 16 officer adopted or terminated any Rule 10b5-1 trading arrangement or non-Rule 10b5-1 trading arrangement (in each case, as defined in Item 408(a) of Regulation S-K).

ITEM 6. EXHIBITS

Exhibit Number	Exhibit Description	Incorporation By Reference			
		Form	SEC File No.	Exhibit	Filing Date
2.1	Agreement and Plan of Merger between the Company, Kinnate and Merger Sub, dated February 16, 2024	8-K	001-39801	2.1	2/16/2024
2.2	Contingent Value Rights Agreement, dated April 3, 2024, by and between XOMA Corporation, XRA 1 Corp., Broadridge Corporate Issuer Solutions, LLC and Fortis Advisors LLC.	8-K	001-39801	2.2	4/3/2024
3.1	Certificate of Incorporation of XOMA Corporation	8-K12G3	000-14710	3.1	01/03/2012
3.2	Certificate of Amendment of Certificate of Incorporation of XOMA Corporation	8-K	000-14710	3.1	05/31/2012
3.3	Certificate of Amendment of Amended Certificate of Incorporation of XOMA Corporation	8-K	000-14710	3.1	05/28/2014
3.4	Certificate of Amendment to the Amended Certificate of Incorporation of XOMA Corporation	8-K	000-14710	3.1	10/18/2016
3.5	Certificate of Designation of Preferences, Rights and Limitations of Series X Convertible Preferred Stock	8-K	000-14710	3.1	02/16/2017
3.6	Certificate of Designation of 8.625% Series A Cumulative Perpetual Preferred Stock	8-K	000-14710	3.1	12/11/2020
3.7	Certificate of Designation of 8.375% Series B Cumulative Perpetual Preferred Stock	8-K	001-39801	3.1	04/08/2021
3.8	Certificate of Correction of the Certificate of Designation of 8.375% Series B Cumulative Perpetual Preferred Stock	10-Q	001-39801	3.8	08/05/2021
3.9	Certificate of Amendment to the Certificate of Designation of 8.375% Series B Cumulative Perpetual Preferred Stock of XOMA Corporation.	8-K	001-39801	3.1	08/05/2021
3.10	By-laws of XOMA Corporation	8-K12G3	000-14710	3.2	01/03/2012
4.1	Reference is made to Exhibits 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.7, 3.8, 3.9 and 3.10				
4.2	Specimen of Common Stock Certificate	8-K	000-14710	4.1	01/03/2012
4.3	Deposit Agreement, dated effective April 9, 2021, by and among XOMA Corporation, American Stock Transfer & Trust Company, LLC, as depositary, and the holders of the depositary receipts issued thereunder	8-K	001-39801	4.1	04/08/2021
4.4	Form of Warrants (May 2018 Warrants)	10-Q	000-14710	4.6	08/07/2018
4.5	Form of Warrants (March 2019 Warrants)	10-Q	000-14710	4.7	05/06/2019
4.6	Form of Warrant (December 2023) ($35.00 Exercise Price)	8-K	001-39801	4.1	12/19/2023

Exhibit Number	Exhibit Description	Incorporation By Reference			
		Form	SEC File No.	Exhibit	Filing Date
4.7	Form of Warrant (December 2023) ($42.50 Exercise Price)	8-K	001-39801	4.2	12/19/2023
4.8	Form of Warrant (December 2023) ($50.00 Exercise Price)	8-K	001-39801	4.3	12/19/2023
4.9	Form of Indenture	S-3	333-277794	4.6	3/8/2024
10.1	Amended and Restated Officer Employment Agreement, dated January 8, 2024, between XOMA Corporation and Owen Hughes	10-K	001-39801	10.16	3/8/2024
10.2#+	Payment Interest Purchase Agreement by and between Talphera, Inc. and XOMA (US) LLC dated as of January 12, 2024				
10.3#+	Amendment No. 1 to Royalty Purchase Agreement entered into as of March 4, 2024 by and between Viracta Therapeutics, Inc ("Seller") and XOMA (US) LLC ("Purchaser")				
31.1+	Certification of Chief Executive Officer, as required by Rule 13a-14(a) or Rule 15d-14(a) of the Securities Exchange Act of 1934				
31.2+	Certification of Chief Financial Officer, as required by Rule 13a 14(a) or Rule 15d 14(a) of the Securities Exchange Act of 1934				
32.1+(1)	Certifications of Chief Executive Officer and Chief Financial Officer, as required by Rule 13a-14(b) or Rule 15d-14(b) of the Securities Exchange Act of 1934 and 18 U.S.C. §1350				
101.INS+	Inline XBRL Instance Document				
101.SCH+	Inline XBRL Schema Document				
101.CAL+	Inline XBRL Calculation Linkbase Document				
101.DEF+	Inline XBRL Definition Linkbase Document				
101.LAB+	Inline XBRL Labels Linkbase Document				
101.PRE+	Inline XBRL Presentation Linkbase Document				
104	Cover Page Interactive Data File (formatted as Inline XBRL and contained in Exhibit 101)				

\+ Filed herewith.

\# Portions of this exhibit have been omitted as the Registrant has determined that (i) the omitted information is not material and (ii) the omitted material is of the type that the Registrant treats as private or confidential.

(1) Furnished herewith. These certifications are not deemed filed with the SEC 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 Form 10-Q), irrespective of any general incorporation language contained in such filing.

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.

XOMA Corporation

Date: May 9, 2024 By: /s/ OWEN HUGHES
Chief Executive Officer (Principal Executive Officer)

Date: May 9, 2024 By: /s/ THOMAS BURNS
Thomas Burns
Senior Vice President, Finance and Chief Financial Officer
(Principal Financial and Principal Accounting Officer)

Exhibit 10.2

CERTAIN IDENTIFIED INFORMATION HAS BEEN EXCLUDED (INDICATED BY: [***]) FROM THE EXHIBIT BECAUSE IT IS BOTH (I) NOT MATERIAL AND (II) THE TYPE OF INFORMATION THAT THE REGISTRANT CUSTOMARILY AND ACTUALLY TREATS AS PRIVATE OR CONFIDENTIAL.

PAYMENT INTEREST PURCHASE AGREEMENT

BY AND BETWEEN

TALPHERA, INC.

AND

XOMA (US) LLC

DATED AS OF JANUARY 12, 2024

TABLE OF CONTENTS

List of Exhibits

PAYMENT INTEREST PURCHASE AGREEMENT

This Payment Interest Purchase Agreement is dated as of January 12, 2024 (this "Agreement"), by and between **TALPHERA, INC.**, a Delaware corporation ("Seller"), and **XOMA (US) LLC**, a Delaware limited liability company, as Buyer ("Buyer").

RECITALS

WHEREAS, Seller is a party to that certain Asset Purchase Agreement, dated as of March 12, 2023 (as may be amended, amended and restated or otherwise modified from time to time, the "Sale Agreement"), between Seller and Vertical Pharmaceuticals, LLC, a Delaware limited liability company ("Vertical"), pursuant to which, among other things, (i) Seller sold to Vertical certain assets, and Vertical assumed from Seller certain liabilities, in each case related to the Program, and (ii) Seller is entitled to receive from Vertical, among other things, the Purchased Receivables, as more fully set forth in the Sale Agreement; and

WHEREAS, Seller desires to sell, transfer, assign and convey to Buyer, and Buyer desires to purchase, acquire and accept from Seller, all of Seller's right, title and interest in and to the Purchased Receivables, for the consideration and on the terms and subject to the conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the representations, warranties, covenants and agreements set forth herein and for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, intending to be legally bound, Seller and Buyer hereby agree as follows:

ARTICLE I

DEFINITIONS; INTERPRETATION

Section 1.1 Definitions. As used in this Agreement, the following terms shall have the following meanings:

"Affected Receivables" is defined in Section 7.8.

"Affiliate" means, with respect to any Person, any other Person that directly, or indirectly through one or more intermediaries, Controls, or is Controlled by, or is under common Control with, such Person.

"Agreed Amount" is defined in Section 8.3.

[***]

"Applicable Amount" is defined in Section 7.6(c)(iii).

"Applicable Law" means, with respect to any Person, all laws, rules, regulations, codes and orders of Governmental Authorities applicable to such Person or any of its properties or assets.

"Applicable Withholding Certificate" means a valid and properly executed IRS Form W-9 (or any applicable successor form) certifying that the applicable party hereto (or its regarded owner, as applicable) is a "United States person" as defined in Section 7701(a)(30) of the Code and is exempt from U.S. federal withholding tax and backup withholding tax with respect to all payments under this Agreement to such party.

"Bill of Sale" means that certain bill of sale, substantially in the form of Exhibit A attached hereto, entered into by Seller and Buyer as of the Closing.

"Business Day" means any day other than (a) a Saturday or Sunday or (b) a day on which banking institutions located in San Francisco, California, are permitted or required by Applicable Law to remain closed.

"Buyer" is defined in the preamble.

"Buyer Fundamental Representations" means Section 5.1 (Organization), Section 5.2 (Authorization), Section 5.3 (Enforceability), Section 5.4 (Absence of Conflicts), and Section 5.7 (Brokers' Fees).

"Buyer Indemnified Party" is defined in Section 8.1(a).

"Buyer Material Adverse Effect" means any one or more of: (a) a material adverse effect on the ability of Buyer to consummate the transactions contemplated by the Transaction Documents and perform its obligations under the Transaction Documents and (b) a material adverse effect on the validity or enforceability of the Transaction Documents against Buyer or the rights of Seller thereunder.

"Buyer Participated Audit" is defined in Section 7.4(b)(ii).

"Buyer Transaction Expenses" is defined in Section 10.4.

"Cash Tax Savings" is defined in Section 6.2(c).

"Change of Control" means, with respect to Seller, the consummation of any bona fide third party tender offer, merger, acquisition, consolidation or other similar transaction, in one transaction or a series of related transactions, the result of which is that any "person" (as defined in Section 13(d)(3) of the Exchange Act), or group of persons, other than Seller or its subsidiaries, becomes the beneficial owner (as defined in Rules 13d-3 and 13d-5 of the Exchange Act) of (a) 50% or more of the total voting power of the voting stock of Seller (or the surviving entity) or (b) all or substantially all of Seller's and its Affiliates' assets; but excluding any such transaction or series of transactions effected exclusively for bona fide equity financing purposes or any consolidation or merger transaction or series of transactions effected exclusively to change Seller's domicile.

"Change of Control Adjustment" is defined in Section 7.8.

"Claim Amount" is defined in Section 8.3.

"Claim Notice" is defined in Section 8.3.

"Claim Notice Response" is defined in Section 8.3.

"Closing" is defined in Section 3.1.

"Closing Date" is defined in Section 3.1.

"Code" means the Internal Revenue Code of 1986, as amended.

"Commercially Reasonable Efforts" means the efforts Seller would reasonably be expected to expend if Seller had the sole right, title and interest in and to the Purchased Receivables to which such efforts relate.

"Confidential Information" is defined in Section 6.1(b).

"Confidentiality Agreement" is defined in Section 6.1(d).

"Consent" means any consent, approval, license, permit, order, authorization, registration, filing or notice.

"Contract" means any contract, license, indenture, instrument, arrangement, understanding or agreement.

"Control" and its derivatives mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities or other voting interests, by contract or otherwise.

"Disclosing Party" is defined in Section 6.1(b).

"Disclosure Schedules" means the disclosure schedules attached hereto as Exhibit B.

"DoD" has the meaning set forth in the Marketing Agreement.

"DoD Net Sales" means Net Sales which generate amounts payable by Vertical pursuant to Section 2.13 of the Sale Agreement and Section 5 of the Marketing Agreement.

"Escrow Account" means the escrow account created pursuant to the Escrow Agreement.

"Escrow Agent" means The Bank of New York Mellon, as escrow agent under the Escrow Agreement, or its successor.

"Escrow Agreement" means an Escrow Agreement to be entered into by and among Seller, Buyer, and The Bank of New York Mellon, in form and content acceptable to Seller and Buyer, as may be amended, amended and restated or otherwise modified from time to time.

"Exchange Act" means the Securities Exchange Act of 1934, as amended.

"Excluded Assets" is defined in Section 2.2.

"Excluded Liabilities and Obligations" is defined in Section 2.3.

"Financing Statements" is defined in Section 2.4.

"Fundamental Representations" means the Seller Fundamental Representations and the Buyer Fundamental Representations.

"Governmental Authority" means the government of the United States, any other nation or any political subdivision thereof, whether state or local, and any agency, authority (including supranational authority), branch, commission, instrumentality, regulatory body, court, tribunal or arbitral or judicial body or other Person exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

"Indemnified Party" is defined in Section 8.2(a).

"Indemnified Tax" means any withholding tax or increased withholding tax imposed by any Governmental Authority in any jurisdiction that would not have been required to be withheld but for any action of Seller, including (a) a redomiciliation of Seller to another jurisdiction or (b) an assignment by Seller pursuant to Section 10.5, in each case after the Closing Date and in each case without regard to whether such tax is a

Permitted Reduction. Notwithstanding anything to the contrary herein, no tax shall constitute an Indemnified Tax for purposes of this Agreement to the extent such tax (i) is imposed as a result of (A) an assignment by Buyer as permitted under Section 10.5, (B) a redomiciliation of Buyer to another jurisdiction, or (C) a change in Buyer's tax classification for U.S. federal income tax purposes or (ii) is attributable to a failure by Buyer to provide an Applicable Withholding Certificate.

"Indemnifying Party" is defined in Section 8.2(a).

"Initial Economics" means $20,000,000.

"IP Agreement" means that certain Intellectual Property Agreement, dated as of April 3, 2023, by and between Seller and Vertical, as may be amended, amended and restated or otherwise modified from time to time.

"IP Assignment Agreement" means that certain Intellectual Property Assignment Agreement, dated as of April 3, 2023, by and between Seller and Vertical, as may be amended, amended and restated or otherwise modified from time to time.

"IP Confidential Information" is defined in Section 6.1(b).

"Judgment" means any judgment, order, writ, stipulation, consent order, injunction, or decree.

"Knowledge of Seller" means [***].

"Losses" is defined in Section 8.1(a).

"Marketing Agreement" means that certain Marketing Agreement, dated April 3, 2023, between Vertical and Seller, as may be amended, amended and restated or otherwise modified from time to time.

"Modification" is defined in Section 7.5.

"Net Sales" has the meaning set forth in the Sale Agreement.

"Non-Warranting Parties" is defined in Section 10.3(a).

"Notifying Party" is defined in Section 7.6(c)(iii).

"Permitted Reduction" means [***].

"Person" means any individual, firm, corporation, partnership, limited liability company, trust, joint venture, association, unincorporated organization, Governmental Authority or other entity or organization.

"Post Stepdown Date Enforcement Costs" is defined in Section 7.6(c)(iii).

"Post Stepdown Date Enforcement Costs Notice" is defined in Section 7.6(c)(iii).

"Pre/At Stepdown Date Enforcement Costs" is defined in Section 7.6(c)(ii).

"Pre/At Stepdown Date Enforcement Costs Notice" is defined in Section 7.6(c)(ii).

"Product" has the meaning set forth in the Sale Agreement.

"Program" has the meaning set forth in the Sale Agreement.

"Purchase Price" is defined in Section 2.1(b).

"Purchased Receivables" means, without duplication:

(a) following the Closing Date and on or prior to the Stepdown Date:

(i) 100% of any and all payments or amounts payable to Seller under Sections 2.11, 2.12, 2.13 and 2.14 of the Sale Agreement and Section 5.a of the Marketing Agreement (for clarity, after giving effect to all Permitted Reductions but excluding any Vertical Setoff) (and in the case of payments or amounts payable to Seller under Sections 2.11, 2.12 and 2.13 of the Sale Agreement and Section 5.a of the Marketing Agreement, payments or amounts payable to Seller only in respect of Net Sales (A) made during the fourth calendar quarter of 2023 in an amount for such payments or amounts payable equal to $[***] and (B) made on and after January 1, 2024, and in each case (except with respect to payments or amounts payable to Seller under Section 2.12 of the Sale Agreement) subject to the Stepdown Adjustment);

(ii) any and all payments or amounts payable to Seller under the Sale Agreement or Marketing Agreement in lieu of such payments of the foregoing clause (i) (including, for purposes of clarity, pursuant to the last sentence of Section 2.15 of the Sale Agreement and the last sentence of Section 5.f of the Marketing Agreement, in each case, solely to the extent related to payments or amounts payable under the foregoing clause (i));

(iii) any and all payments or amounts payable to Seller under Section 2.18 of the Sale Agreement and Section 5.d of the Marketing Agreement (in each case, solely to the extent related to payments or amounts payable under the foregoing clause (i)); and

(iv) any interest payments to Seller under the Sale Agreement or the Marketing Agreement assessed on any payments or amounts payable described in the foregoing clauses (i), (ii), or (iii); and

(b) following the Stepdown Date:

(i) 50% of any and all payments or amounts payable to Seller under Section 2.11 of the Sale Agreement, 100% of any and all payments or amounts payable to Seller under Section 2.12 of the Sale Agreement, 50% of any and all payments or amounts payable to Seller under Section 2.13 of the Sale Agreement and Section 5.a of the Marketing Agreement, and 50% of any and all payments or amounts payable to Seller under Section 2.14 of the Sale Agreement (for clarity, after giving effect to all Permitted Reductions but excluding any Vertical Setoff) (and in each case (except with respect to payments or amounts payable to Seller under Section 2.12 of the Sale Agreement) subject to the Change of Control Adjustment);

(ii) any and all payments or amounts payable to Seller under the Sale Agreement or the Marketing Agreement in lieu of such payments of the foregoing clause (i) (including, for purposes of clarity, pursuant to the last sentence of Section 2.15 of the Sale Agreement and the last sentence of Section 5.f of the Marketing Agreement, in each case, solely to the extent related to payments or amounts payable under the foregoing clause (i));

(iii) any and all payments or amounts payable to Seller under Section 2.18 of the Sale Agreement and Section 5.d of the Marketing Agreement (in each case, solely to the extent related to payments or amounts payable under the foregoing clause (i)); and

(iv) any interest payments to Seller under the Sale Agreement or the Marketing Agreement assessed on any payments or amounts payable described in the foregoing clauses (i), (ii), or (iii).

"Receivables" means the Purchased Receivables and the Retained Interests.

"Receiving Party" is defined in Section 6.1(a).

"Recipient Confidentiality Breach" is defined in Section 6.1(a).

"Recoupment Instruction" is defined in Section 7.4(b)(iv).

"Reimbursing Party" is defined in Section 7.6(c)(iii).

"Related Agreements" means, collectively, (a) the Sale Agreement, (b) the Marketing Agreement, (c) the IP Agreement, (d) the IP Assignment Agreement and (e) the Vertical TSA.

"Relevant Obligations" means confidentiality obligations of Disclosing Party or any of its Affiliates under any agreement with a third party (including, without limitation, the Sale Agreement and the Marketing Agreement) to which any Confidential Information is subject.

"Representatives" means, collectively, with respect to any Person, any directors, officers, employees, agents, advisors or other representatives (including attorneys, accountants, consultants, scientists and financial advisors) of such Person.

"Retained Interests" means, without duplication, Seller's right, title and interest in and to the following, from and after the Stepdown Date:

(a) 50% of any and all payments or amounts payable to Seller under Section 2.11 of the Sale Agreement, 50% of any and all payments or amounts payable to Seller under Section 2.13 of the Sale Agreement and Section 5.a of the Marketing Agreement and 50% of any and all payments or amounts payable to Seller under Section 2.14 of the Sale Agreement (for clarity, after giving effect to all Permitted Reductions but excluding any Vertical Setoff), in each case subject to the Change of Control Adjustment;

(b) any and all payments or amounts payable to Seller under the Sale Agreement or the Marketing Agreement in lieu of such payments of the foregoing clause (a) (including, for purposes of clarity, pursuant to the last sentence of Section 2.15 of the Sale Agreement and the last sentence of Section 5.f of the Marketing Agreement, in each case, solely to the extent related to payments or amounts payable under the foregoing clause (a));

(c) any and all payments or amounts payable to Seller under Section 2.18 of the Sale Agreement and Section 5.d of the Marketing Agreement (in each case, solely to the extent related to payments or amounts payable under the foregoing clause (a)); and

(d) any interest payments to Seller under the Sale Agreement or the Marketing Agreement assessed on any payments or amounts payable described in the foregoing clauses (a), (b), or (c).

"Reverse Merger" is defined in Section 7.8.

"Sale Agreement" is defined in the recitals.

"SEC" means the U.S. Securities and Exchange Commission.

"SEC Documents" means all reports, schedules, forms, statements, and other documents (including exhibits (including without limitation this Agreement) and all other information incorporated therein) required to be filed by Seller or Buyer with the SEC.

"Seller" is defined in the preamble.

"Seller Fundamental Representations" means the representations and warranties contained in Section 4.1 (Organization); Section 4.2 (Authorization); Section 4.3 (Enforceability); Section 4.4 (Absence of Conflicts); Section 4.8 (Brokers' Fees); [***]; Section 4.10 (Title to Purchased Receivables); and Section 4.11 (UCC Matters).

"Seller Indemnified Party" is defined in Section 8.1(b).

"Seller Material Adverse Effect" means any one or more of: (a) a material adverse effect on (i) the ability of Seller to consummate the transactions contemplated by the Transaction Documents and perform its obligations under any of the Transaction Documents or the Sale Agreement, (ii) the legality, validity or enforceability of any of the Transaction Documents or the Sale Agreement, (iii) the rights or remedies of Buyer under any of the Transaction Documents, (iv) the rights or remedies of Seller under the Sale Agreement, or (v) the legal obligations of Vertical to pay the Purchased Receivables under the Sale Agreement; or (b) an adverse effect in any respect on the timing, amount or duration of the Purchased Receivables, or the timing, amount or duration of the payments to be made to Buyer in respect of any portion of the Purchased Receivables or the right of Buyer to receive such payments.

"Seller Participated Audit" is defined in Section 7.4(b)(i).

"Solvent" means, with respect to any Person on any date of determination, that on such date (a) the fair value of the property of such Person is greater than the total amount of liabilities, including contingent liabilities, of such Person, (b) the present fair salable value of the assets of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts as they become absolute and matured, (c) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person's ability to pay such debts and liabilities as they mature, (d) such Person is not engaged in business or a transaction, and is not about to engage in business or a transaction, for which such Person's property would constitute an unreasonably small capital and (e) such Person is able to pay its debts and liabilities, contingent obligations and other commitments as they mature in the ordinary course of business. For purposes of the definition of "Solvent," (i) "debt" means liability on a "claim," (ii) "claim" means any right to payment, whether or not such a right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured or unsecured and (iii) the amount of contingent liabilities at any time shall be computed as the amount that, in the light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

"Stepdown Adjustment" means an adjustment to clause (a)(i) of the definition of Purchased Receivables, such that to the extent that as of the Stepdown Date there are any amounts accrued and payable to Seller but not yet paid under (a) Section 2.11 of the Sale Agreement, (b) Section 2.13 of the Sale Agreement and Section 5.a of the Marketing Agreement, or (c) Section 2.14 of the Sale Agreement, in each case as determined based on the date and timing of when the applicable Net Sales or event or events giving rise to amounts payable under Section 2.14 of the Sale Agreement occur (collectively, the "Accrued Amounts Payable"), then, effective

as of the Stepdown Date, clause (a)(i) of the definition of Purchased Receivables shall mean 50% of any and all Accrued Amounts Payable.

As an example:

1. Assume that Buyer receives its Initial Economics ($[***]) on January 31, 2026, at the time the Q4 2025 payment under Sections 2.11, 2.12 and 2.13 of the Sale Agreement and Section 5.a of the Marketing Agreement is made. So, the Stepdown Date is January 31, 2026.

2. Assume that for Q1 2026, the only amount payable under Section 2.11 of the Sale Agreement, Section 2.13 of the Sale Agreement, Section 5.a of the Marketing Agreement and Section 2.14 of the Sale Agreement is a total of $[***], payable to Seller under Section 2.13 of the Sale Agreement and Section 5.a of the Marketing Agreement, and of that $[***] is payable based on Net Sales made during the period January 1 – January 31, 2026 (the "Example Accrued Amount Payable").

3. Because the Stepdown Date is January 31, 2026, the Example Accrued Amount Payable that will have accrued as of the Stepdown Date but be paid in April 2026 (after the Stepdown Date) shall be subject to the Stepdown Adjustment and be calculated at 50% for purposes of clause (a)(i) of the definition of Purchased Receivables, such that $[***] of the Example Accrued Amount Payable will be Purchased Receivables and $[***] of the Example Accrued Amount Payable will be Retained Interests.

"Stepdown Date" means the date upon which Buyer has received the Initial Economics in respect of the Purchased Receivables.

"Third Party Claim" is defined in Section 8.2(a).

"Transaction Documents" means this Agreement, the Bill of Sale, the Escrow Agreement, the Vertical Notice and Waiver, and the Vertical Instruction Letter.

"UCC" means the Uniform Commercial Code as in effect in the State of New York; provided, that, if, with respect to any financing statement or by reason of any provisions of Applicable Law, the perfection or the effect of perfection or non-perfection of the back-up security interest or any portion thereof granted pursuant to Section 2.4 is governed by the Uniform Commercial Code as in effect in a jurisdiction of the United States other than the State of New York, then "UCC" means the Uniform Commercial Code as in effect from time to time in such other jurisdiction for purposes of the provisions of this Agreement and any financing statement relating to such perfection or effect of perfection or non-perfection.

"Vertical" is defined in the recitals.

"Vertical Instruction Letter" is defined in Section 6.5.

"Vertical Notice and Waiver" means the notice to Vertical of the transactions contemplated hereby under the Marketing Agreement and waiver by Vertical of its right to receive 30 days' prior written notice under Section 12 of the Marketing Agreement, substantially in the form of Exhibit C attached hereto.

"Vertical Reports" means, collectively, (a) the Payments Reports (as defined in the Sale Agreement) required to be delivered by Vertical to Seller pursuant to Section 2.12(c) of the Sale Agreement, (b) the DoD Payments Report (as defined in the Marketing Agreement) required to be delivered by Vertical to Seller pursuant to Section 5.b of the Marketing Agreement, (c) the License and Acquisition Income Reports (as defined in the Sale Agreement) required to be delivered by Vertical to Seller pursuant to Section 2.14(b) of the Sale

Agreement, and (d) any notices and supporting documentation delivered by Vertical to Seller in respect of the events specified in Sections 2.11-2.15 of the Sale Agreement and Section 5 of the Marketing Agreement.

"Vertical Setoff" means any right of set-off, counterclaim, credit, reduction or deduction, in each case by contract or otherwise, including with respect to any amounts owed by Seller to Vertical, other than a Permitted Reduction. For purposes of clarity, the parties acknowledge and agree that (a) no adjustments or credits in the calculations pursuant to Section 2.11(a) of the Sale Agreement for determining whether an amount is payable under Section 2.11 of the Sale Agreement will be a Vertical Setoff for purposes of this Agreement and (b) no deduction taken by Vertical in calculating Net Sales in accordance with the definition of Net Sales in the Sale Agreement will be a Vertical Setoff for purposes of this Agreement.

"Vertical TSA" means that certain Transition Services Agreement, dated as of April 3, 2023, by and between Seller and Vertical, as may be amended, amended and restated or otherwise modified from time to time.

"Waiver Expiration Date" means January 25, 2024.

In the event a capitalized term used herein is defined in both this Agreement and the Sale Agreement, the meaning given to such term in this Agreement shall control.

Section 1.2 Certain Interpretations. Except where expressly stated otherwise in this Agreement, the following rules of interpretation apply to this Agreement:

(a) an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP;

(b) unless otherwise defined, all terms that are defined in the UCC shall have the meanings stated in the UCC;

(c) words of the masculine, feminine or neuter gender shall mean and include the correlative words of other genders;

(d) the definitions of terms shall apply equally to the singular and plural forms of the terms defined;

(e) references to the term "or" will be interpreted in the inclusive sense commonly associated with the term "and/or";

(f) "include," "includes" and "including" shall be deemed to be followed by the words "without limitation";

(g) references to a Person are also to its permitted successors and assigns (subject to any restrictions on assignment, transfer or delegation set forth herein or in any of the other Transaction Documents);

(h) the word "will" shall be construed to have the same meaning and effect as the word "shall";

(i) the words "hereof", "herein", "hereunder" and similar terms when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision hereof, and "Article," "Section" "Exhibit" or "Schedule" refer to an Article or Section of, or an Exhibit or Schedule to, this Agreement, unless otherwise specified;

(j) except as otherwise set forth in this Agreement, in the computation of a period of time from a specified date to a later specified date, the word "from" means "from and including" and each of the words "to" and "until" means "to but excluding";

(k) references to "$" or otherwise to dollar amounts refer to the lawful currency of the United States;

(l) where any payment is to be made, any funds are to be applied or any calculation is to be made under this Agreement on a day that is not a Business Day, unless this Agreement otherwise provides, such payment shall be made, such funds shall be applied and such calculation shall be made on the succeeding Business Day, and payments shall be adjusted accordingly;

(m) references to an Applicable Law include any amendment or modification to such Applicable Law and any rules and regulations issued thereunder, whether such amendment or modification is made, or issuance of such rules and regulations occurs, before, on or after the date of this Agreement; and

(n) references to this "Agreement" shall include a reference to all Schedules and Exhibits attached to this Agreement (including the Disclosure Schedules), all of which constitute a part of this Agreement and are incorporated herein for all purposes.

ARTICLE II

PURCHASE AND SALE OF PURCHASED RECEIVABLES

Section 2.1 Purchase and Sale of Purchased Receivables.

(a) Purchase and Sale. Upon the terms and subject to the conditions of this Agreement, at the Closing, Seller shall sell, transfer, assign and convey to Buyer, and Buyer shall purchase, acquire and accept from Seller, free and clear of all liens and encumbrances, all of Seller's right, title and interest in and to the Purchased Receivables.

(b) Purchase Price. In full consideration for the sale, transfer, assignment and conveyance of the Purchased Receivables, and subject to the terms and conditions set forth herein, Buyer shall make a one-time payment to Seller on the Closing Date of $8,000,000 (the "Purchase Price"), by wire transfer of immediately available funds as directed by Seller.

Section 2.2 Excluded Assets. Buyer does not, by purchase, acquisition or acceptance of the rights, title or interest granted hereunder or otherwise pursuant to any of the Transaction Documents, purchase, acquire or accept any assets or contract rights of Seller (including, for clarity, the Retained Interests) other than the Purchased Receivables (the "Excluded Assets").

Section 2.3 No Obligations Transferred. Notwithstanding anything to the contrary contained in this Agreement, (a) the sale, transfer, assignment and conveyance to Buyer of the Purchased Receivables pursuant to this Agreement shall not in any way subject Buyer to, or transfer, affect or modify, any obligation or liability of Seller or Seller's Affiliates of whatever nature, whether presently in existence or arising or asserted hereafter, whether known or unknown (the "Excluded Liabilities and Obligations") and (b) Buyer expressly does not assume or agree to become responsible for any of the Excluded Liabilities and Obligations. All Excluded Liabilities and Obligations shall be retained by and remain liabilities and obligations of Seller or Seller's Affiliates, as the case may be.

Section 2.4 True Sale. It is the intention of the parties hereto that the sale, transfer, assignment and conveyance contemplated by this Agreement be, and is, a true, complete absolute and irrevocable sale, transfer, assignment and conveyance by Seller to Buyer of all of Seller's right, title and interest in and to the Purchased Receivables. Neither Seller nor Buyer intends the transactions contemplated by this Agreement to be, or for any purpose characterized as, a loan from Buyer to Seller or a pledge, a security interest, a financing transaction or a borrowing. Each of Seller and Buyer hereby waives, to the maximum extent permitted by Applicable Law, any right to contest or otherwise assert that this Agreement does not constitute a true, complete, absolute and irrevocable sale, transfer, assignment and conveyance by Seller to Buyer of all of Seller's right, title and interest in and to the Purchased Receivables under Applicable Law, which waiver shall, to the maximum extent permitted by Applicable Law, be enforceable against Seller and Buyer in any bankruptcy or insolvency proceeding relating to Seller. Accordingly, each of Seller and Buyer agrees to account for the sale, transfer, assignment and conveyance of the Purchased Receivables as sales of "accounts" or "payment intangibles" (as appropriate) in accordance with the UCC (except to the extent generally accepted accounting principles in the United States require such transaction to be accounted for as a liability or a derivative in Seller's consolidated financial statements) and Seller hereby authorizes Buyer, from and after the Closing, to file financing statements (and continuation statements with respect to such financing statements when applicable) (the "Financing Statements") naming Seller as the seller and/or debtor and Buyer as the buyer and/or secured party in respect of the Purchased Receivables; provided, in each case that such Financing Statements shall not describe as collateral anything other than the Purchased Receivables and any "proceeds" (as defined in the UCC) thereof, and shall not contain an "all asset" (or words of similar effect) collateral description. Notwithstanding the statement of the intention of the parties hereto, and solely as a precaution to protect to Buyer's interests hereunder if, notwithstanding the intention of the parties hereto, the sale, transfer, assignment and conveyance contemplated hereby is hereafter held not to be a true sale of the Purchased Receivables by Seller to Buyer or such sale is for any reason deemed ineffective or unenforceable, this Agreement shall constitute a security agreement under the UCC and Seller does hereby grant to Buyer, as security for all of Seller's obligations hereunder, including the payment to Buyer of amounts equal to the Purchased Receivables as they become due and payable, a first priority security interest in and to all right, title and interest of Seller in, to and under the Purchased Receivables and any "proceeds" (as such term is defined in the UCC) thereof, and Seller does hereby authorize Buyer to file such Financing Statements in such manner and such jurisdiction as may be necessary or appropriate to perfect such security interests.

Section 2.5 Payments. Any payments to be made by a party hereto shall be made by wire transfer of immediately available funds to the other party in accordance with written instructions provided from time to time by such other party. A late fee of [***]% over the prime rate published by the Wall Street Journal, from time to time, as the prime rate shall accrue on all unpaid undisputed amounts on an annualized basis with respect to any late payment under this Agreement beginning [***] after such payment is due.

ARTICLE III

CLOSING; DELIVERABLES

Section 3.1 Closing. The closing of the purchase and sale of the Purchased Receivables (the "Closing") shall take place within one Business Day of the satisfaction or waiver of the conditions set forth in Section 3.3, at the offices of Gibson, Dunn & Crutcher, LLP, One Embarcadero Center, Suite 2600, San Francisco, California 94111, or on such other date, at such other time or at such other place, in each case as the parties mutually agree (such date, the "Closing Date").

Section 3.2 Payment of Purchase Price. At the Closing, Buyer shall deliver to Seller payment of the Purchase Price by wire transfer of immediately available funds as directed by Seller.

Section 3.3 Conditions to Closing.

(a) The obligation of Buyer to consummate the transactions contemplated hereby on the Closing Date is subject to the satisfaction or waiver at or prior to the Closing of the following conditions:

(i) Seller shall have delivered to Buyer a duly executed counterpart to the Bill of Sale, evidencing the sale and assignment to Buyer of the Purchased Receivables.

(ii) Seller shall have delivered to Buyer a certificate of an executive officer of Seller, dated as of the Closing, certifying as to the (A) attached copies of the organizational documents of Seller and resolutions of the governing body of Seller authorizing and approving the execution, delivery and performance by Seller of the Transaction Documents and the transactions contemplated thereby and (B) the incumbency of the officer or officers of Seller who have executed and delivered the Transaction Documents, including therein a signature specimen of each such officer or officers.

(iii) (A) The representations and warranties (other than the Seller Fundamental Representations) set forth in Article IV (without giving effect to any materiality or Seller Material Adverse Effect qualifiers contained therein) shall be true and correct in all respects on the date hereof and true and correct in all material respects on the Closing Date as though made on such date, (B) the Seller Fundamental Representations (without giving effect to any materiality or Seller Material Adverse Effect qualifiers contained therein) shall be true and correct in all respects on the date hereof and on the Closing Date as though made on such date, (C) Seller shall have performed and complied in all material respects with the agreements and conditions required by this Agreement to have been performed or complied with by it prior to or at the Closing, and (D) there shall not have occurred a Seller Material Adverse Effect since the date hereof.

(iv) Seller shall have delivered to Buyer a certificate of an executive officer of Seller, dated as of the Closing, certifying that the conditions set forth in Section 3.3(a)(iii) have been fulfilled.

(v) The Related Agreements remain in full force and effect.

(vi) Seller shall have delivered to Buyer an Applicable Withholding Certificate.

(vii) Seller shall have delivered to Buyer the Vertical Notice and Waiver duly executed by Vertical, unless the Waiver Expiration Date has occurred.

(viii) Cooley LLP, as counsel to Seller, shall have delivered to Buyer a duly executed legal opinion in substantially the form of Exhibit E attached hereto.

(ix) Seller shall have delivered to Buyer an electronic copy of all of the information and documents posted to the virtual data room established by Seller as of the date hereof and made available to Buyer for archival purposes only.

(x) There shall not have been issued and be in effect any judgment, order, writ, injunction, citation, award or decree of any Governmental Authority enjoining, preventing or restricting the consummation of the transactions contemplated by this Agreement.

(xi) There shall not have been instituted or be pending any action or proceeding by any Governmental Authority or any other Person (A) challenging or seeking to make illegal, to delay materially or otherwise directly or indirectly to restrain or prohibit the consummation of the transactions contemplated hereby, (B) seeking to obtain material damages in connection with the transactions contemplated hereby or (C) seeking to restrain or prohibit Buyer's purchase of the Purchased Receivables.

(b) The obligation of Seller to consummate the transactions contemplated hereby on the Closing Date is subject to the satisfaction or waiver at or prior to the Closing of the following conditions:

(i) Buyer shall have delivered a duly executed counterpart to the Bill of Sale, evidencing the sale and assignment to Buyer of the Purchased Receivables.

(ii) Buyer shall have delivered to Seller a certificate of an executive officer or other authorized signatory of Buyer, dated as of the Closing, certifying as to the incumbency of the officer or officers of Buyer who have executed and delivered the Transaction Documents, including therein a signature specimen of each such officer or officers.

(iii) (A) The representations and warranties (other than the Buyer Fundamental Representations) set forth in Article V (without giving effect to any materiality or Buyer Material Adverse Effect qualifiers contained therein) shall be true and correct in all respects on the date hereof and true and correct in all material respects on the Closing Date as though made on such date, (B) the Buyer Fundamental Representations (without giving effect to any materiality or Buyer Material Adverse Effect qualifiers contained therein) shall be true and correct in all respects on the date hereof and on the Closing Date as though made on such date, and (C) Buyer shall have performed and complied in all material respects with the agreements and conditions required by this Agreement to have been performed or complied with by it prior to or at the Closing.

(iv) Buyer shall have delivered to Seller a certificate of an executive officer of Buyer, dated as of the Closing, certifying that the conditions set forth in Section 3.3(b)(iii) have been fulfilled.

(v) Buyer shall have delivered to Seller an Applicable Withholding Certificate.

(vi) There shall not have been issued and be in effect any judgment, order, writ, injunction, citation, award or decree of any Governmental Authority enjoining, preventing or restricting the consummation of the transactions contemplated by this Agreement.

(vii) There shall not have been instituted or be pending any action or proceeding by any Governmental Authority or any other Person (A) challenging or seeking to make illegal, to delay materially or otherwise directly or indirectly to restrain or prohibit the consummation of the transactions contemplated hereby, (B) seeking to obtain material damages in connection with the transactions contemplated hereby or (C) seeking to restrain or prohibit Buyer's purchase of the Purchased Receivables.

ARTICLE IV

SELLER'S REPRESENTATIONS AND WARRANTIES

Except as set forth in the Disclosure Schedules, Seller hereby represents and warrants to Buyer as of the date hereof and as of the Closing Date:

Section 4.1 Organization. Seller is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware. Seller is duly licensed or qualified to do business and is in corporate good standing in each jurisdiction in which the nature of the business conducted by it or the character or location of the properties and assets owned, leased or operated by it makes such licensing or qualification necessary, except where the failure to be so licensed or qualified and is in corporate good standing has not and would not reasonably be expected to have, either individually or in the aggregate, a Seller Material Adverse Effect.

Section 4.2 Authorization. Seller has the requisite corporate power and authority to execute, deliver and perform its obligations under the Transaction Documents and to consummate the transactions contemplated thereby. The execution, delivery and performance of the Transaction Documents, and the consummation of the transactions contemplated thereby, have been duly authorized by Seller.

Section 4.3 Enforceability. Each of the Transaction Documents has been duly executed and delivered by Seller, and constitutes a valid and binding obligation of Seller, enforceable against Seller in accordance with its terms, except as may be limited by general principles of equity (regardless of whether considered in a proceeding at law or in equity) and by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws of general application relating to or affecting creditors' rights generally, general equitable principles and principles of public policy.

Section 4.4 Absence of Conflicts. The execution, delivery and performance by Seller of the Transaction Documents and the consummation of the transactions contemplated thereby do not and shall not (a) conflict with, or constitute a breach of or default under, any provision of (i) the certificate of incorporation or bylaws of Seller or (ii) the Sale Agreement or the Marketing Agreement, or (b) conflict with, or constitute a material breach of or material default under, any provision of any (i) Applicable Law or Judgment, in each case existing as of the date hereof or (ii) any Contract (other than the Sale Agreement and the Marketing Agreement) to which Seller is a party or by which Seller is bound.

Section 4.5 Consents. No notice to, or Consent of, any Governmental Authority or any other Person is required, or will be required, by or with respect to Seller in connection with the execution and delivery by Seller of the Transaction Documents, the performance by Seller of its obligations under the Transaction Documents or the consummation by Seller of the transactions contemplated by the Transaction Documents, except for (a) such Consents as shall have been obtained on or prior to the date hereof, (b) the Vertical Instruction Letter, (c) the Vertical Notice and Waiver and (d) a Current Report on Form 8-K by Seller with the U.S. Securities and Exchange Commission.

Section 4.6 Litigation. No action, suit, proceeding, claim, demand, citation, summons, subpoena, inquiry, investigation or other proceeding (whether civil, criminal, administrative, regulatory, investigative or informal), including by or before any Governmental Authority, is pending, or, to the Knowledge of Seller, threatened, by or against Seller, at law or in equity, that, individually or in the aggregate would reasonably be expected to result in a Seller Material Adverse Effect or which questions the validity of this Agreement or the transactions contemplated hereby or any action taken or to be taken pursuant hereto.

Section 4.7 Compliance with Laws. Seller has (a) not violated, is not in violation of, has not been given written notice that it has violated, and, to the Knowledge of Seller, Seller is not under investigation with respect to its violation of, and, to the Knowledge of Seller, has not been threatened to be charged with any violation of, any Applicable Law or any Judgment of any Governmental Authority, and (b) is not subject to any Judgment of any Governmental Authority; in each case of clauses (a) and (b) that would reasonably be expected to result in a Seller Material Adverse Effect.

Section 4.8 Brokers' Fees. There is no investment banker, broker, finder, financial advisor or other intermediary who has been retained by or is authorized to act on behalf of Seller who is entitled to any fee or commission in connection with the transactions contemplated by this Agreement.

Section 4.9 Sale Agreement and Marketing Agreement.

(a) Sale Agreement and Marketing Agreement; Vertical Reports. Attached hereto as Exhibit F are true, correct and complete copies of the Sale Agreement and the Marketing Agreement. Seller has made

available to Buyer true, correct and complete copies of: (i) the Related Agreements (other than the Sale Agreement and the Marketing Agreement), (ii) all Vertical Reports that have been received by Seller prior to the date hereof; and (iii) all material written notices delivered to Vertical by Seller, or by Vertical to Seller pursuant to the Sale Agreement or the Marketing Agreement.

(b) Validity and Enforceability of Sale Agreement and Marketing Agreement. Each of the Sale Agreement and the Marketing Agreement is a valid and binding obligation of Seller and, to the Knowledge of Seller, of Vertical, enforceable against each of Seller and, to the Knowledge of Seller, Vertical, in accordance with its terms, except as may be limited by general principles of equity (regardless of whether considered in a proceeding at law or in equity) and by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws of general application relating to or affecting creditors' rights generally, general equitable principles and principles of public policy. Each of the Sale Agreement and the Marketing Agreement will continue to be valid, binding and enforceable on identical terms immediately following the consummation of the transactions contemplated by the Transaction Documents. Seller has not received any written notice from Vertical challenging the validity, enforceability, or interpretation of any provision of the Sale Agreement or the Marketing Agreement or any obligation of Vertical to pay the Receivables thereunder.

(c) Other Agreements. The Sale Agreement and the Marketing Agreement are the only agreements, instruments, arrangements, waivers or understandings (other than the other Related Agreements) between Seller (or any Affiliate thereof) and Vertical (or any Affiliate thereof) relating to the subject matter thereof, and other than the Related Agreements and except as set forth in the Disclosure Schedules, there are no other agreements, instruments, arrangements, waivers or understandings between Seller (or any Affiliate thereof) and Vertical (or any Affiliate thereof) that relate to the Sale Agreement, the Marketing Agreement or the Receivables, or that would reasonably be expected to result in a Seller Material Adverse Effect. Other than the Sale Agreement and the Marketing Agreement, there is no contract, agreement or other arrangement (whether written or oral) to which Seller is a party or by which any of its assets or properties is bound or committed (i) that creates a lien on the Purchased Receivables; (ii) that materially affects the Purchased Receivables or (iii) for which breach thereof, nonperformance thereof, cancellation thereof or failure to renew would reasonably be expected to result in a Seller Material Adverse Effect.

(d) No Termination, Force Majeure, etc. Seller has not (i) given Vertical any notice of termination pursuant to Section 9.1 of the Sale Agreement or Section 7 of the Marketing Agreement or (ii) received from Vertical any written notice of termination pursuant to Section 9.1 of the Sale Agreement or Section 7 of the Marketing Agreement. To the Knowledge of Seller, no event has occurred that upon notice or the passage of time, or both, would reasonably be expected to give Seller or Vertical the right to terminate, or delay any of its obligations under, the Sale Agreement or the Marketing Agreement, or cease or delay paying the Receivables.

(e) No Breaches. There is and has been no material breach of any provision of the Sale Agreement or the Marketing Agreement by Seller, and no event has occurred that upon notice or the passage of time, or both, would reasonably be expected to give rise to any such material breach by Seller. To the Knowledge of Seller, there is and has been no material breach of any provision of the Sale Agreement or the Marketing Agreement by Vertical, and, to the Knowledge of Seller, no event has occurred that, upon notice or the passage of time, or both, would reasonably be expected to give rise to any such material breach by Vertical. Seller has not received any notice that Seller or Vertical is in default of, or of an intention by Vertical to breach, any provision of the Sale Agreement or the Marketing Agreement.

(f) No Payments. Except as set forth in the Disclosure Schedules, as of the date of this Agreement, Vertical has not made, and Seller has not received, any payments with respect to the Receivables.

(g) No Waivers, Releases or Amendments. Seller has not granted any material waiver under the Sale Agreement or the Marketing Agreement or released Vertical, in whole or in part, from any of its material obligations under the Sale Agreement or the Marketing Agreement. There have been no oral waivers or modifications (or pending requests therefor) in respect of the Sale Agreement or the Marketing Agreement by Seller or Vertical. Seller has not received from Vertical any proposal, and has not made any proposal to Vertical, to amend or waive any provision of the Sale Agreement or the Marketing Agreement.

(h) No Sublicenses. To the Knowledge of Seller, there are no licenses or sublicenses entered into by Vertical or any other Person (or any predecessor or Affiliate thereof) in respect of the Product, the Sale Agreement, or the Marketing Agreement. Seller has not received any notice from Vertical relating to any prospective licenses or sublicenses in respect of the Product, the Sale Agreement, or the Marketing Agreement.

(i) Audits. Seller has not requested access to or conducted an audit of, pursuant to Section 2.18 of the Sale Agreement or Section 5.d of the Marketing Agreement, the books of account or records of Vertical or disputed the amount of any Receivables payable pursuant to the Sale Agreement or the Marketing Agreement.

(j) Vertical Setoffs. Vertical is not owed any amount by Seller, under any of the Related Agreements or otherwise, that would permit Vertical to exercise any Vertical Setoff against the Receivables or any other amounts payable to Seller under any of the Related Agreements. Vertical has not in the past exercised, and, to the Knowledge of Seller, no event has occurred and no facts or circumstances exist that would reasonably be expected to give rise to a right of Vertical to exercise any Vertical Setoff against the Receivables or any other amounts payable to Seller under any of the Related Agreements.

(k) Sale Agreement and Marketing Agreement Representations. To the Knowledge of Seller, all representations and warranties of Seller in the Sale Agreement and the Marketing Agreement were true and correct in all material respects when made.

(l) No Indemnity Claims. As of the date of this Agreement, neither Seller nor Vertical has made or provided any notice of an indemnity claim under the Sale Agreement or the Marketing Agreement.

(m) No Assignments. Seller has not consented to, and Seller has not been notified of, any assignment or other transfer by Vertical of the Sale Agreement or the Marketing Agreement or any of Vertical's rights or obligations under the Sale Agreement or the Marketing Agreement. To the Knowledge of Seller, Vertical has not assigned or otherwise transferred the Sale Agreement or the Marketing Agreement or any of Vertical's rights or obligations under the Sale Agreement or the Marketing Agreement to any Person. Seller has not assigned or otherwise transferred, in whole or in part, the Sale Agreement or the Marketing Agreement or any of Seller's right, title or interest in and to the Purchased Receivables to any Person.

(n) Freedom-to-operate. No written legal opinion concerning or with respect to any third party intellectual property rights relating to the Product, including any freedom-to-operate, product clearance, patentability or right-to-use opinion, has been delivered to Seller or, to the Knowledge of Seller, to Vertical. To the Knowledge of Seller, there is no patent owned or exclusively controlled by a third party which Vertical does not have the right to use and that would be infringed by Vertical's sale of the Product.

Section 4.10 Title to Purchased Receivables. Seller has good and valid title to the Purchased Receivables, free and clear of all liens and encumbrances (other than those contemplated to be granted by Seller to Buyer in respect of the Purchased Receivables pursuant to Section 2.4). Upon payment of the Purchase Price by Buyer, Buyer will have acquired, subject to the terms and conditions set forth in this Agreement, good and valid title to the Purchased Receivables, free and clear of all liens and encumbrances (other than those contemplated to be granted by Seller to Buyer in respect of the Purchased Receivables pursuant to Section 2.4).

Upon the filing by Buyer of the Financing Statements with the Secretary of State of the State of Delaware and to the extent that, despite the intent of the parties hereto, the sale, transfer, assignment and conveyance of the Purchased Receivables by Seller to Buyer pursuant to this Agreement is hereafter held not to be a sale, the security interest in the Purchased Receivables granted by Seller to Buyer pursuant to Section 2.4 shall be a perfected first priority security interest in and to the Purchased Receivables to the extent that such security interest can be perfected under the UCC by the filing of the Financing Statements in such filing office.

Section 4.11 UCC Matters. Seller's exact legal name is, and since January 9, 2024 has been Talphera, Inc. Seller was originally incorporated as "SuRx, Inc." on July 13, 2005, and between August 13, 2006 and January 9, 2024, was "AcelRx Pharmaceuticals, Inc." Seller's jurisdiction of organization is, and since its organization has been, the State of Delaware. Seller's principal place of business since August 2023, is located in San Mateo, California.

Section 4.12 Taxes. No deduction or withholding for or on account of any tax has been or was required to be made from any payment by Vertical to Seller under the Sale Agreement. Seller has not received written notice from Vertical of any intention to withhold or deduct any tax from future payments under the Sale Agreement. Seller has filed (or caused to be filed) all material tax returns and material tax reports required to be filed under Applicable Law and has paid all material taxes required to be paid by Seller (including, in each case, in its capacity as a withholding agent), except for any such taxes that are being contested in good faith by appropriate proceedings and for which adequate reserves have been established in accordance with the generally accepted accounting principles applicable to Seller. There are no existing liens for taxes on the Purchased Receivables (or any portion thereof).

Section 4.13 Solvency. Seller is, individually and together with its subsidiaries on a consolidated basis, Solvent, and will be Solvent immediately after giving effect to the transactions contemplated by this Agreement.

Section 4.14 Disclosure. [***] to the Knowledge of Seller, there is no fact (other than general economic or industry conditions) that would reasonably be expected to materially and adversely affect the Purchased Receivables or the Product.

ARTICLE V

BUYER'S REPRESENTATIONS AND WARRANTIES

Buyer hereby represents and warrants to Seller that as of the date hereof and as of the Closing Date:

Section 5.1 Organization. Buyer is a limited liability company, duly organized, validly existing and in good standing under the laws of Delaware.

Section 5.2 Authorization. Buyer has the requisite organizational power and authority to execute, deliver and perform the Transaction Documents and to consummate the transactions contemplated thereby. The execution, delivery and performance of the Transaction Documents, and the consummation of the transactions contemplated thereby, have been duly authorized by Buyer.

Section 5.3 Enforceability. Each of the Transaction Documents has been duly executed and delivered by Buyer, and constitutes a valid and binding obligation of Buyer, enforceable against Buyer in accordance with its terms, except as may be limited by general principles of equity (regardless of whether considered in a proceeding at law or in equity) and by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws of general application relating to or affecting creditors' rights generally, general equitable principles and principles of public policy.

Section 5.4 Absence of Conflicts. The execution, delivery and performance by Buyer of the Transaction Documents and the consummation of the transactions contemplated thereby do not and shall not (a) conflict with, or constitute a breach of or default under, any provision of the certificate of incorporation or bylaws of Buyer, or (b) conflict with, or constitute a material breach of or material default under, any provision of any (i) Applicable Law or Judgment in each case existing as of the date hereof or (ii) any Contract to which Buyer is a party or by which Buyer is bound.

Section 5.5 Consents. No Consent of any Governmental Authority or any other Person is required by or with respect to Buyer in connection with the execution and delivery by Buyer of the Transaction Documents, the performance by Buyer of its obligations under the Transaction Documents or the consummation of the transactions contemplated by the Transaction Documents, except for (a) such Consents, the failure of which to be obtained or made, would not reasonably be expected to result in a Buyer Material Adverse Effect, and (b) such Consents as shall have been obtained on or prior to the date hereof.

Section 5.6 Litigation. No action, suit, proceeding or investigation before any Governmental Authority is pending, or, to the knowledge of Buyer, threatened, against Buyer that, individually or in the aggregate, would reasonably be expected to result in a Buyer Material Adverse Effect.

Section 5.7 Brokers' Fees. There is no investment banker, broker, finder, financial advisor or other intermediary who has been retained by or is authorized to act on behalf of Buyer who is entitled to any fee or commission in connection with the transactions contemplated by this Agreement.

Section 5.8 Financing. Buyer has, and will have as of the Closing, sufficient cash on hand or binding and enforceable commitments to provide it with funds sufficient to satisfy its obligations to pay the Purchase Price. Buyer acknowledges that its obligations under this Agreement are not contingent on obtaining financing.

ARTICLE VI

GENERAL COVENANTS

Section 6.1 Confidentiality.

(a) Confidentiality. Except as set forth in Section 6.1(c) below, each party ("Receiving Party") shall keep confidential and not disclose to any Person (other than its Affiliates and its and its Affiliates' Representatives), and shall cause its Affiliates and its and its Affiliates' Representatives to keep confidential and not disclose to any Person, any Confidential Information. Receiving Party shall, and shall cause its Affiliates and its and its Affiliates' Representatives to, use the Confidential Information solely in connection with Receiving Party's administration of, and exercising of rights and performance of obligations under, the Transaction Documents (and not for any other purpose). The foregoing obligations shall continue until the later of (i) three years after the date of termination of this Agreement pursuant to Section 9.1, in the case of Confidential Information other than IP Confidential Information, (ii) five years after the date of termination of this Agreement pursuant to Section 9.1 in the case of IP Confidential Information and (iii) the date of expiration of the last to expire of the Relevant Obligations. The Receiving Party agrees that it shall be and remain responsible hereunder for any failure by any Person who receives Confidential Information from or on behalf of the Receiving Party pursuant to this Section 6.1 (including the Receiving Party's Affiliates, Representatives, Affiliates' Representatives, and other permitted recipients under this Section 6.1) to treat such Confidential Information as required under this Section 6.1 (any such failure, a "Recipient Confidentiality Breach").

(b) Confidential Information. "Confidential Information" means, collectively, all information (whether written or oral, or in electronic or other form, and whether furnished before, on or after the date of this

Agreement) (i) concerning, or relating in any way, directly or indirectly, to the other party ("Disclosing Party"), the Related Agreements, the Purchased Receivables or the Retained Interests, including any Vertical Reports, notices, requests, correspondence or other information furnished pursuant to this Agreement and any other reports, data, information, materials, notices, correspondence or documents of any kind relating in any way, directly or indirectly, to the Purchased Receivables or the Retained Interests, including any IP Confidential Information and (ii) disclosed by the parties hereto under the Confidentiality Agreement. "IP Confidential Information" means, collectively, (x) the terms and conditions of the IP Agreement and (y) any and all confidential or proprietary information disclosed by Vertical or any of its Affiliates to Seller or by Seller to Vertical or any of its Affiliates under the IP Agreement. Notwithstanding the foregoing, "Confidential Information" shall not include any information that (A) was known by Receiving Party at the time such information was disclosed to Receiving Party, its Affiliates or its or its Affiliates' Representatives in accordance herewith or in accordance with the Confidentiality Agreement, as evidenced by its written records; (B) was or becomes generally available to the public or part of the public domain (other than as a result of a disclosure by Receiving Party, its Affiliates or its or its Affiliates' Representatives in violation of this Agreement or the Confidentiality Agreement) prior to any disclosure of such information by Receiving Party, its Affiliates or its or its Affiliates' Representatives; (C) becomes known to Receiving Party on a non-confidential basis from a source other than Disclosing Party and its Representatives (and without any breach of this Agreement or the Confidentiality Agreement by Receiving Party, its Affiliates or its or its Affiliates' Representatives); provided, that such source, to the knowledge of Receiving Party, had the right to disclose such information to Receiving Party (without breaching any legal, contractual or fiduciary obligation to Disclosing Party); or (D) is or has been independently developed by Receiving Party, its Affiliates or its or its Affiliates' Representatives without use of or reference to the Confidential Information (as evidenced by contemporaneous written records). The existence and terms of this Agreement shall be deemed the Confidential Information of both parties hereto. [***]

(c) Permitted Disclosures.

(i) In the event that Receiving Party or its Affiliates or any of its or its Affiliates' Representatives are requested by a Governmental Authority or required by Applicable Law (as reasonably determined by Receiving Party after consulting with legal counsel), legal process, or the regulations of a stock exchange or Governmental Authority or by the order or ruling of a court, administrative agency or other government body of competent jurisdiction to disclose any Confidential Information, Receiving Party shall promptly, and, in any event, use reasonable efforts to, promptly upon learning of such requirement, to the extent permitted by Applicable Law, notify Disclosing Party in writing of such requirement so that Disclosing Party may seek an appropriate protective order or other appropriate remedy (and if Disclosing Party seeks such an order or other remedy, Receiving Party will provide such cooperation, at Disclosing Party's expense, as Disclosing Party shall reasonably request). If no such protective order or other remedy is obtained or sought and Receiving Party or its Affiliates or its or its Affiliates' Representatives are, in the view of their respective counsel (which may include their respective internal counsel), legally compelled to disclose Confidential Information, Receiving Party or its Affiliates or its or its Affiliates' Representatives, as the case may be, shall only disclose that portion of the Confidential Information that their respective counsel advises that Receiving Party or its Affiliates or its or its Affiliates' Representatives, as the case may be, are compelled to disclose and will exercise reasonable efforts, at Disclosing Party's expense, to obtain reliable assurance that confidential treatment will be accorded to that portion of the Confidential Information that is being disclosed. In any event, Receiving Party will not oppose action by Disclosing Party to obtain an appropriate protective order or other reliable assurance that confidential treatment will be accorded the Confidential Information.

(ii) Notwithstanding anything herein to the contrary, the Receiving Party may disclose Confidential Information with the prior written consent of the Disclosing Party or to the extent such disclosure is reasonably necessary in the following situations:

(A) prosecuting or defending litigation;

(B) for regulatory, tax or customs purposes;

(C) for audit purposes, provided that each recipient of Confidential Information must be bound by customary obligations of confidentiality and non-use prior to any such disclosure;

(D) to the extent such disclosure of this Agreement or the transactions contemplated hereby is required by Applicable Law or reasonably necessary to comply with the Securities Act of 1933, as amended, with the Exchange Act, or with any rule, regulation or legal process promulgated by the SEC or a stock exchange, provided that prior to the submission by the filing party to the SEC of any SEC Documents containing any Confidential Information of the other party or that contain information related to the existence or subject matter of this Agreement or the identity of the other party, to the extent practicable and permitted by Applicable Law, the filing party shall provide drafts of such SEC Documents to the other party within a reasonable period of time prior to the planned date of such submission (but in any event no less than [***] Business Days prior to the planned date of such submission), to review any redactions related thereto, and the filing party shall consider in good faith any comments by the other party thereto and cooperate in good faith with the other party to obtain confidential treatment with respect to the portions of this Agreement that the other party reasonably requests to be kept confidential and to redact any Confidential Information of the other party therein as requested by the other party, unless reasonably advised by counsel that such Confidential Information is required to be included by Applicable Law;

(E) disclosure to (i) its Affiliates and their Representatives on a need-to-know basis in order for such party to exercise its rights or fulfill its obligations under this Agreement and (ii) its Representatives; provided, that in the case of each of clause (i) and clause (ii) the recipient of Confidential Information agrees to be bound by the provisions of this Section 6.1, or are otherwise subject to confidentiality obligations no less restrictive than those set forth in this Agreement;

(F) disclosure to existing or prospective lenders, acquirors, investors, partners, assignees and other sources of funding, including underwriters, debt financing or co-investors, or direct or indirect beneficial owners, or limited partners, or potential partners or collaborators, and the Representatives of the foregoing, provided that the recipient of Confidential Information agrees to be bound by the provisions of this Section 6.1, or are otherwise subject to confidentiality obligations no less restrictive than those set forth in this Agreement (other than with respect to the duration of such confidentiality obligations, which shall be consistent with customary practice for the purpose but in any event having a duration of not less than [***] year from the date of disclosure of Confidential Information other than IP Confidential Information and a duration of not less than [***] years from the date of disclosure in the case of any IP Confidential Information); or

(G) as is necessary in connection with a permitted assignment pursuant to Section 10.5.

Notwithstanding anything to the contrary in Section 6.1(c)(ii)(D), a party making a filing with the SEC shall have no obligation to provide a draft of a proposed filing of an SEC Document or otherwise comply with Section 6.1(c)(ii)(D) with respect to a proposed filing of an SEC Document if the description of or reference to this Agreement or to the subject Confidential Information of the other party or the identity of the other party contained in, or attached as an exhibit to, the proposed SEC Document, has been included in any previous SEC Document filed by either party in accordance with Section 6.1(c)(ii)(D) or otherwise approved by the other party in writing.

(d) Termination of Confidentiality Agreement. Effective upon the date hereof, the Confidentiality Agreement, dated September 14, 2023 (the "Confidentiality Agreement"), between Buyer and Seller shall terminate and be of no further force or effect, and shall be superseded by the provisions of this Section 6.1.

Section 6.2 Taxes.

(a) Tax Treatment. For U.S. federal, state, local and non-U.S. tax purposes, Seller and Buyer shall treat (i) the transactions contemplated by the Transaction Documents as a sale of the Purchased Receivables and (ii) any and all amounts remitted by Seller to Buyer after the Closing Date pursuant to Section 7.2(a) or otherwise under this Agreement as having been received by Seller as agent for Buyer, unless otherwise required by a final determination as defined in Section 1313(a) of the Code or any corresponding provision of state, local, or non-U.S. Applicable Law. If there is an inquiry by any Governmental Authority of Seller or Buyer related to this Section 6.2, Seller and Buyer shall cooperate with each other in responding to such inquiry in a commercially reasonable manner consistent with this Section 6.2.

(b) Withholding Certificates. Each party hereto agrees (i) to notify the other party promptly in writing if (A) such party becomes ineligible to use or deliver any Applicable Withholding Certificate or other tax form previously delivered pursuant to this Agreement, or (B) any Applicable Withholding Certificate or other tax form previously delivered pursuant to this Agreement ceases to be accurate or complete, (ii) to provide (to the extent it is legally eligible to do so) an updated IRS Form W-9 to the other party whenever required in order for such party to have on file a duly completed and valid IRS Form W-9, and (iii) to provide any additional tax forms that the other party may reasonably request.

(c) Withholding. Buyer and Seller acknowledge and agree that, under Applicable Law in effect as of the date hereof, no taxes are expected to be deducted or withheld from payments under this Agreement provided the parties deliver the Withholding Certificates contemplated by Section 6.2(b). Buyer and Seller shall each be entitled to deduct and withhold (or cause to be deducted and withheld) from any amount payable under this Agreement (but for this sentence) any amounts that it is required to deduct or withhold under Applicable Law with respect thereto; provided that if Buyer or Seller shall be required to withhold or deduct any such tax, it shall remit (or cause to be remitted) any amount withheld or deducted pursuant to this Section 6.2 to the relevant taxing authority (and such amounts shall be treated for all purposes of this Agreement as having been paid to the Person to whom such amounts would otherwise have been paid). Notwithstanding the foregoing or anything to the contrary in this Agreement, if amounts are deducted or withheld from amounts payable to Buyer (or to Seller pursuant to Section 2.15 of the Sale Agreement or Section 5.f of the Marketing Agreement that result in a reduction of the Purchased Receivables) in respect of an Indemnified Tax, Seller shall make a payment to Buyer so that, after all such required deductions and withholdings in respect of any Indemnified Tax attributable to amounts payable or that would be payable to Buyer hereunder (including any deductions and withholdings required with respect to any additional payments under this Section 6.2), Buyer receives an amount equal to the amount that it would have received had no deductions or withholdings on account of Indemnified Taxes been made. Buyer shall use commercially reasonable efforts to obtain a refund or credit in respect of any Indemnified Tax, and to the extent that the Buyer obtains such refund or tax credit that actually reduces cash taxes payable by Buyer (a "Cash Tax Savings") attributable to such Indemnified Tax in the year the relevant payment was made

or in the immediately following year, Buyer shall reimburse Seller an amount equal to such refund or Cash Tax Savings (less reasonable expenses incurred in obtaining such refund or credit).

(d) Cooperation. Each of Buyer and Seller shall cooperate and provide, or cause to be provided, to the other party such assistance as may reasonably be necessary to enable the applicable recipient party to claim any exemption or credit in respect of any amounts withheld pursuant to this Section 6.2. Each of Buyer and Seller shall furnish to the other party proper evidence of the taxes paid by it to the relevant taxing authority on behalf of the recipient party.

Section 6.3 Further Actions. From and after the Closing, each of Buyer and Seller shall, at the expense of the requesting party, execute and deliver such additional documents, certificates and instruments, and perform such additional acts, as may be reasonably requested and necessary or appropriate to carry out all of the provisions of this Agreement and to give full effect to and consummate the transactions contemplated by this Agreement, including to (a) perfect the sale, assignment, transfer and conveyance of the Purchased Receivables to Buyer pursuant to this Agreement, (b) create, evidence and perfect Buyer's security interest granted pursuant to Section 2.4 and (c) enable Buyer to exercise or enforce any of Buyer's rights under any Transaction Document to which Buyer is party (subject to, in the case of clause (c), [***]).

Section 6.4 Escrow Agreement. The parties agree to negotiate and enter into the Escrow Agreement within [***] Business Days of the Closing Date.

Section 6.5 Vertical Instruction Letter. On the effective date of the Escrow Agreement, Seller shall deliver to Buyer and Vertical an instruction letter, in substantially the form of Exhibit D attached hereto (the "Vertical Instruction Letter"), duly executed by Seller, instructing Vertical to pay 100% of all payments due to Seller under the Sale Agreement and the Marketing Agreement to the Escrow Account (for purposes of clarity, Seller and Buyer agree to instruct the Escrow Agent that $[***] of the payments under Sections 2.12 and 2.13 of the Sale Agreement and Section 5.a of the Marketing Agreement payable to Seller in respect of Net Sales made during the fourth calendar quarter of 2023 shall be payable to Buyer out of the Escrow Account and the portion of such payments in excess of $[***] shall be payable to Seller out of the Escrow Account). Prior to the termination of this Agreement pursuant to Section 9.1, Seller shall not, without Buyer's prior written consent, deliver any further directions relating to payment of the Receivables to Vertical.

Section 6.6 Public Announcements. Except (a) for a press release previously approved in form and substance by Seller and Buyer, or any other public announcement using substantially the same text as such press release, and (b) for a public disclosure in accordance with Section 6.1(c)(ii)(D) and the last paragraph of Section 6.1(c)(ii), neither party hereto shall, and each party hereto shall cause its Affiliates not to, without the prior written consent of the other party (which consent shall not be unreasonably withheld or delayed), issue any press release or make any other public disclosure with respect to this Agreement or any of the other Transaction Documents or any of the transactions contemplated hereby or thereby.

Section 6.7 Vertical Notice and Waiver. For a period of 30 days following receipt by Vertical of the Vertical Notice and Waiver delivered by Seller, Seller shall use commercially reasonable efforts to obtain Vertical's duly authorized signature to such Vertical Notice and Waiver.

ARTICLE VII

COVENANTS RELATING TO THE SALE AGREEMENT AND MARKETING AGREEMENT

Section 7.1 Performance of Sale Agreement and Marketing Agreement.

(a) Seller agrees that it shall (i) comply in all material respects with its obligations under each of the Sale Agreement and the Marketing Agreement, (ii) not take any action or forego any action that would reasonably be expected to constitute a material breach or default under the Sale Agreement or the Marketing Agreement and (iii) use Commercially Reasonable Efforts to cure any such breach by Seller of the Sale Agreement or the Marketing Agreement, (iv) not forgive, release or compromise any amount owed to or becoming owed to Seller under the Sale Agreement in respect of the Receivables, without the prior written consent of Buyer, and (v) not, without the prior written consent of Buyer, (A) exercise any right to offset the Receivables, or modify the Receivables or terminate the Sale Agreement or the Marketing Agreement, in whole or in part, (B) agree with Vertical to offset the Receivables, or modify the Receivables or terminate the Sale Agreement or Marketing Agreement, in whole or in part, or (C) take, or permit any Affiliate or sublicensee of Seller or Vertical to take, any action that would reasonably be expected to give Vertical the right to offset the Receivables, or modify the Receivables or terminate the Sale Agreement or Marketing Agreement, in whole or in part. Subject to the foregoing, promptly, and in any event within [***] Business Days, following receipt by Seller of any written notice of breach by Seller or of termination of the Sale Agreement or Marketing Agreement, Seller shall furnish a true, correct and complete copy of the same to Buyer.

(b) Seller shall not, without the prior written consent of Buyer, grant or withhold any consent, exercise or waive any right, obligation or option or fail to exercise any right, obligation or option in respect of, affecting or relating to the Receivables, the Product, the Sale Agreement, or the Marketing Agreement in any manner that would reasonably be expected (with or without the giving of notice or the passage of time, or both) to have a Seller Material Adverse Effect or conflict with, or cause a termination, breach or default under the Sale Agreement.

Section 7.2 Misdirected Payments; Setoffs.

(a) Misdirected Payments.

(i) If Seller shall, notwithstanding the provisions of the Vertical Instruction Letter, receive any Purchased Receivables, Seller shall promptly, and in any event no later than [***] Business Days after such receipt, remit to Buyer such Purchased Receivables.

(ii) If Buyer shall receive any payment under the Sale Agreement or the Marketing Agreement that does not consist entirely of Purchased Receivables, Buyer shall promptly, and in any event no later than [***] Business Days after such receipt remit to Seller the portion, if any, of such payment that does not constitute Purchased Receivables.

(b) Vertical Setoffs. If Vertical exercises a Vertical Setoff against the Purchased Receivables, then Seller shall promptly, and in any event no later than [***] calendar days following the payment of the Purchased Receivables affected by such Vertical Setoff, make a true-up payment to Buyer pursuant to this Section 7.2(b) such that Buyer receives the full amount of the Purchased Receivables payment that would have been paid to Buyer had such Vertical Setoff not occurred. Notwithstanding anything to the contrary herein, to the extent Seller shall have made a true-up payment to Buyer pursuant to this Section 7.2(b) in respect of any Vertical Setoff, any subsequent payment received from Vertical in respect, and to the extent, of such Vertical Setoff shall not be included in the Purchased Receivables, such that the subsequent payment is included in the Excluded Assets. For all purposes hereunder, any true-up payment made pursuant to this Section 7.2(b) will be treated as paid with respect to the Purchased Receivables for U.S. federal income tax purposes to the fullest extent permitted by Applicable Law. For the avoidance of doubt, withholding taxes (including any withholding taxes deducted by Vertical from payments under the Sale Agreement pursuant to 2.15 of the Sale Agreement or Section 5.f of the Marketing Agreement) shall not be treated as a Vertical Setoff.

(c) Remittances. All remittances pursuant to this Section 7.2 shall be made (i) without setoff or deduction of any kind (except as required by Applicable Law) and (ii) by wire transfer of immediately available funds to such account designated by Seller or Buyer, as applicable, for distributions under the Escrow Agreement or to such other account as Seller or Buyer, as applicable, may designate in writing (such designation to be made at least [***] Business Days prior to any such payment), as the case may be.

(d) Payments Held In Trust. Each party hereto agrees that it shall hold any amounts received by it to which the other party is entitled under this Agreement in trust for the benefit of the other party and agrees that it shall have no right, title or interest whatsoever in such amounts.

Section 7.3 Vertical Reports; Notices; Correspondence.

(a) Promptly, and in any event no later than [***] Business Days, following the receipt by Seller of (i) Vertical Reports required to be delivered pursuant to the Sale Agreement or the Marketing Agreement or (ii) any written notice or material written correspondence from or on behalf of Vertical or any of its Affiliates or the DoD relating to, or involving, the Purchased Receivables (including, for purposes of clarity, any written results of any audit delivered by Vertical to Seller pursuant to Section 2.18 of the Sale Agreement or Section 5.d of the Marketing Agreement, as applicable) or that would reasonably be expected to result in a Seller Material Adverse Effect, or (iii) any written notice or material written correspondence from or on behalf of Vertical or any of its Affiliates or the DoD relating to, or involving, the Sale Agreement or the Marketing Agreement, Seller shall furnish a true and correct copy of the same to Buyer.

(b) Seller shall not send (i) any written notice or material written correspondence to Vertical or any of its Affiliates or the DoD relating to, or involving, the Purchased Receivables or that would reasonably be expected to result in a Seller Material Adverse Effect, or (ii) any written notice or material written correspondence to Vertical or any of its Affiliates or the DoD relating to, or involving, the Sale Agreement or the Marketing Agreement, in each case, pursuant to the Sale Agreement or the Marketing Agreement without the prior written consent of Buyer (such consent not to be unreasonably withheld or delayed). Seller shall promptly, and in any event no later than [***] Business Days, provide to Buyer a copy of any notice or material correspondence sent by Seller to Vertical relating to, or involving, the Purchased Receivables, the Sale Agreement or the Marketing Agreement, or that would reasonably be expected to result in a Seller Material Adverse Effect, in each case, pursuant to the Sale Agreement or the Marketing Agreement. Seller shall use Commercially Reasonable Efforts to respond to any reasonable written inquiries of Buyer related to or involving the Purchased Receivables, which for purposes of clarity shall not require Seller to [***].

Section 7.4 Audits of Vertical.

(a) Consultation. Seller and Buyer shall consult with each other regarding the timing, manner and conduct of (i) any audit of Vertical's books of accounts and other records with respect to the Purchased Receivables pursuant to Section 2.18 of the Sale Agreement or Section 5.d of the Marketing Agreement and (ii) any dispute with respect to a Vertical Report.

(b) Audits.

(i) If requested in writing by Buyer, Seller shall cause an independent, certified public accountant reasonably acceptable to Vertical to audit Vertical's books of accounts and other records with respect to the Purchased Receivables pursuant to Section 2.18 of the Sale Agreement or Section 5.d of the Marketing Agreement, as applicable; provided, however, that Buyer shall not be entitled to request such an audit more frequently than [***], unless [***] is expressly permitted under the terms of Section 2.18 of the Sale Agreement or Section 5.d of the Marketing Agreement, as applicable. With respect to any such audit, Seller shall

select such independent, certified public accountant as Buyer shall recommend for such purpose (as long as such independent, certified public accountant is reasonably acceptable to Seller and Vertical). Subject to the last sentence of this Section 7.4(b)(i), all of the expenses of any such audit requested by Buyer under this Section 7.4(b)(i) (including the fees and expenses of any independent, certified public accountant) that would otherwise be borne by Seller pursuant to the Sale Agreement or the Marketing Agreement shall instead be borne (as such expenses are incurred) by Buyer. If, following the completion of such an audit, Vertical is obligated to bear the costs of such audit pursuant to Section 2.18 of the Sale Agreement or Section 5.d of the Marketing Agreement, Buyer shall be entitled to 100% of the amounts received from Vertical for such costs (or 50% in the case of a Seller Participated Audit, with Seller being entitled to the other 50% in the case of a Seller Participated Audit). Notwithstanding the above, upon reasonable request of Seller, any audit initiated at the request of Buyer pursuant to this Section 7.4(b)(i) may include such additional matters as reasonably requested by Seller (such audit, a "Seller Participated Audit"); provided that half of the expenses of a Seller Participated Audit shall be borne by Seller (as such expenses are incurred).

(ii) Seller shall not request an audit under Section 2.18 of the Sale Agreement or Section 5.d of the Marketing Agreement without the prior written consent of Buyer. Subject to the last sentence of this Section 7.4(b)(ii), all of the expenses of any audit requested by Seller under this Section 7.4(b)(ii) (including the fees and expenses of such independent public accounting firm designated for such purpose) shall be borne by Seller (if and as such expenses are incurred). Notwithstanding the above, upon reasonable request of Buyer, any audit initiated at the request of Seller pursuant to this Section 7.4(b)(ii) may include such additional matters as reasonably requested by Buyer (such audit, a "Buyer Participated Audit"); provided that (A) half of the expenses of a Buyer Participated Audit shall be borne by Buyer (as such expenses are incurred) and (B) if, following the completion of such an audit, Vertical reimburses Seller for the costs of such audit pursuant to Section 2.18 of the Sale Agreement or Section 5.d of the Marketing Agreement, Buyer shall be entitled to [***] of the amount of such reimbursement received from Vertical.

(iii) If, following the completion of an audit of Vertical under Section 7.4(b)(i) or Section 7.4(b)(ii), as applicable, Vertical is required to pay for underpayment of the Receivables, such payment shall be first used to reimburse for all of the expenses as provided in Section 7.4(b)(i) or Section 7.4(b)(ii), as applicable, and the remainder shall be distributed as Purchased Receivables to Buyer and, if applicable, Retained Interests to Seller.

(iv) If, following the completion of an audit of Vertical under Section 7.4(b)(i) or Section 7.4(b)(ii), as applicable, Seller is required to reimburse Vertical for overpayment of Purchased Receivables and, if applicable, Retained Interests, then (A) Buyer shall promptly (and in any event within [***] Business Days following receipt of a request from Seller) pay to Seller for further distribution to Vertical the portion of such overpaid amount that was actually paid to Buyer, and Seller shall promptly (and in any event within [***] Business Days following receipt of such amount from Buyer) pay such amount to Vertical in accordance with Section 2.18 of the Sale Agreement or Section 5.d of the Marketing Agreement, as applicable, and promptly (and in any event within [***] Business Days) after making such payment provide documentation to Buyer evidencing that such payment was made, and (B) if applicable, Seller shall promptly (and in any event within [***] Business Days following provision of such evidence) reimburse Vertical for the portion of such overpaid amount that was actually paid to Seller and shall promptly (and in any event within [***] Business Days) after making such payment provide documentation to Buyer evidencing that such payment was made. In the event that (1) Buyer fails to pay Seller for the portion of such overpaid amount that was actually paid to Buyer within the time specified in the preceding sentence and Seller subsequently pays such amount to Vertical on Buyer's behalf and provides documentation to Buyer evidencing that payment was made, Seller shall be entitled to recoup an amount equal to the amount not paid by Buyer, together with any late fee in respect thereof in accordance with Section 2.5, from the Purchased Receivables; or (2) Seller fails to reimburse Vertical for the portion of such

overpaid amount that was actually paid to Seller within the time specified in the preceding sentence and Buyer subsequently pays such amount to Vertical on Seller's behalf and provides documentation to Seller evidencing that such payment was made, Buyer shall be entitled to recoup an amount equal to the amount not paid by Seller from the Retained Interests, in each case ((1) and (2)) by giving one or more unilateral written instructions to the Escrow Agent to deduct from amounts deposited into the Escrow Account that would otherwise be distributable to Buyer or Seller, respectively, in respect of the Purchased Receivables or Retained Interests, respectively (each, a "Recoupment Instruction"), an amount equal to the sum of such unpaid amount and any late fee in respect thereof calculated in accordance with Section 2.5, if applicable, and to cause the Escrow Agent to distribute such amount to Seller or Buyer, respectively.

Section 7.5 Amendment of Sale Agreement and Marketing Agreement. Seller shall provide Buyer a copy of any proposed amendment, supplement, modification or waiver (a "Modification") of any provision of the Sale Agreement or the Marketing Agreement as soon as practicable and in any event not less than [***] Business Days prior to the date Seller proposes to execute such Modification. Seller shall not, without the prior written consent of Buyer (such consent not to be unreasonably withheld or delayed), execute or agree to execute any proposed Modification. Promptly, and in any event within [***] Business Days, following receipt by Seller of a fully executed Modification of the Sale Agreement or the Marketing Agreement, Seller shall furnish a true, correct, and complete copy of such Modification to Buyer.

Section 7.6 Enforcement of Sale Agreement and Marketing Agreement.

(a) Notice of Vertical Breaches. Promptly, and in any event within [***] Business Days after Seller becoming aware of a breach of, or an alleged breach of, the Sale Agreement or the Marketing Agreement by Vertical, or of the existence of any facts, circumstances or events that, alone or together with other facts, circumstances or events, would reasonably be expected (with or without the giving of notice or passage of time, or both) to give rise to a breach of the Sale Agreement or the Marketing Agreement by Vertical or the right to terminate the Sale Agreement or the Marketing Agreement (in whole or in part) by Seller, in each case Seller shall promptly (but in any event within [***] Business Days) provide notice of such breach or termination event to Buyer describing in reasonable detail the relevant breach or termination event. In addition, Seller shall provide Buyer a copy of any written notice of breach or alleged breach of the Sale Agreement or the Marketing Agreement as soon as practicable and in any event not less than [***] Business Days following such delivery.

(b) Enforcement of Sale Agreement and Marketing Agreement. Seller shall consult with Buyer regarding the breach or termination event referred to in Section 7.6(a) and as to the timing, manner and conduct of any enforcement of Vertical's obligations under the Sale Agreement or the Marketing Agreement relating thereto. Following such consultation, Seller shall, as reasonably instructed by Buyer, exercise such rights and remedies relating to such breach as shall be available to Seller, whether under the Sale Agreement or the Marketing Agreement or by operation of Applicable Law, and use Commercially Reasonable Efforts to enforce compliance by Vertical with the relevant provisions of the Sale Agreement or the Marketing Agreement. In connection with any enforcement of Vertical's obligations under the Sale Agreement or the Marketing Agreement pursuant to this Section 7.6, Seller shall employ such counsel as Buyer shall recommend for such purpose (as long as such counsel is reasonably acceptable to Seller), and shall provide Buyer with access to such counsel for such purpose. Seller agrees to keep Buyer reasonably informed of any such enforcement and to provide copies as soon as practicable, but in any event within [***] Business Days following Seller's receipt or delivery of any and all filings, notices and written communications relating thereto.

(c) Allocation of Proceeds and Costs of Enforcement.

(i) The proceeds from any enforcement of Vertical's obligations under the Sale Agreement or the Marketing Agreement pursuant to this Section 7.6, after deduction and reimbursement

to Buyer and Seller of all costs and expenses (including reasonable and documented attorneys' fees and expenses) incurred by Buyer and Seller in connection with such enforcement, shall be, promptly (and in any event within [***] Business Days) following the receipt of such proceeds, allocated as follows: proceeds, to the extent relating to [***] shall be allocated to Buyer, and proceeds, to the extent relating to the [***] shall be allocated to Seller.

(ii) All costs and expenses (including reasonable and documented attorneys' fees and expenses) of Buyer and Seller of any enforcement by Seller of Vertical's obligations under the Sale Agreement or the Marketing Agreement pursuant to this Section 7.6 incurred on or prior to the Stepdown Date ("Pre/At Stepdown Date Enforcement Costs") shall be borne [***]% by Buyer. Seller shall provide written notice to Buyer from time to time of any Pre/At Stepdown Date Enforcement Costs incurred by Seller, together with reasonable documentation evidencing such Pre/At Stepdown Date Enforcement Costs (each, and together with such documentation, a "Pre/At Stepdown Date Enforcement Costs Notice"). Buyer shall promptly (and in any event within ten Business Days) following Buyer's receipt of a Pre/At Stepdown Date Enforcement Costs Notice reimburse Seller for the undisputed amount of Pre/At Stepdown Date Enforcement Costs set forth in such Pre/At Stepdown Date Enforcement Costs Notice. In the event that Buyer fails to pay Seller the undisputed amount of such Pre/At Stepdown Date Enforcement Costs within the time specified in the preceding sentence, Seller may issue a Recoupment Instruction to the Escrow Agent to recoup from amounts that would otherwise be distributable to Buyer in respect of the Purchased Receivables an amount equal to the sum of the undisputed, unpaid amount of such Pre/At Stepdown Enforcement Costs and any late fee in respect thereof calculated in accordance with Section 2.5, and cause the Escrow Agent to distribute such amount to Seller.

(iii) All costs and expenses (including reasonable and documented attorneys' fees and expenses) of Buyer and Seller of any enforcement by Seller of Vertical's obligations under the Sale Agreement or the Marketing Agreement pursuant to this Section 7.6 incurred after the Stepdown Date ("Post Stepdown Date Enforcement Costs") shall be borne [***]%. Following the Stepdown Date, Seller or Buyer, as applicable (the "Notifying Party") shall provide written notice to the other party (the "Reimbursing Party") from time to time of any Post Stepdown Date Enforcement Costs incurred by the Notifying Party, together with reasonable documentation evidencing such Post Stepdown Date Enforcement Costs (each, and together with such documentation, a "Post Stepdown Date Enforcement Costs Notice"). The Reimbursing Party shall promptly (and in any event within ten Business Days) following the Reimbursing Party's receipt of a Post Stepdown Date Enforcement Costs Notice reimburse the Notifying Party for the undisputed amount of that portion of the Post Stepdown Date Enforcement Costs set forth in such Post Stepdown Date Enforcement Costs Notice (the "Applicable Amount") as required so that, after giving effect to such payment (including any previous such payments and any Post Stepdown Date Enforcement Costs borne directly by the Reimbursing Party), the Notifying Party and the Reimbursing Party shall have [***]% of the aggregate Post Stepdown Date Enforcement Costs incurred by Buyer and Seller as of the date of such payment. In the event that the Reimbursing Party fails to pay the Notifying Party the undisputed Applicable Amount within the time specified in the preceding sentence, the Notifying Party may issue a Recoupment Instruction to the Escrow Agent to recoup from amounts that would otherwise be distributable to the Reimbursing Party in respect of the Purchased Receivables or Retained Interests, as applicable, an amount equal to the sum of the undisputed, unpaid Applicable Amount and any late fee in respect thereof calculated in accordance with Section 2.5, and cause the Escrow Agent to distribute such amount to the Notifying Party.

In connection with the foregoing, the party receiving a Pre/At Stepdown Date Enforcement Costs Notice or Post Stepdown Date Enforcement Costs Notice shall have ten Business Days to deliver a written response to the other party disputing the amount of any Pre/At Stepdown Date Enforcement Costs or Post Stepdown Date Enforcement

Costs included in such Pre/At Stepdown Date Enforcement Costs Notice or Post Stepdown Date Enforcement Costs Notice, as applicable. If no such written response is delivered to the party that delivered the Pre/At Stepdown Date Enforcement Costs Notice or Post Stepdown Date Enforcement Costs Notice, as applicable, within such ten Business Day period, the amount of such Pre/At Stepdown Date Enforcement Costs or Post Stepdown Date Enforcement Costs, as applicable, shall be deemed undisputed for the purposes of this Section 7.6(c). If a written response is delivered to the party that delivered the Pre/At Stepdown Date Enforcement Costs Notice or Post Stepdown Date Enforcement Costs Notice, as applicable, within such ten Business Day period, any portion of the Pre/At Stepdown Date Enforcement Costs or Post Stepdown Date Enforcement Costs to which the party delivering the written response has agreed in such written response shall be undisputed for purposes of this Section 7.6(c) and, as to any portion that is disputed by the party delivering such written response, if such dispute has not been resolved within twenty Business Days following delivery of such written response, each party shall have the right to submit such dispute to a court of competent jurisdiction in accordance with the provisions of Section 10.11.

Notwithstanding the foregoing, all costs and expenses (including reasonable and documented attorneys' fees and expenses) of Buyer and Seller of any enforcement by Seller of Vertical's obligations under the Sale Agreement or the Marketing Agreement pursuant to this Section 7.6 shall be borne 100% by Seller if such breach or termination event results from a breach of the Sale Agreement or the Marketing Agreement by Seller. Nothing contained herein shall limit Buyer from retaining, at its sole cost, separate outside counsel who shall be permitted, where reasonably practical, to consult with the lead counsel selected pursuant to Section 7.6(b) for such enforcement.

Section 7.7 Preservation of Rights; Assignments. Seller shall not hereafter sell, transfer, hypothecate, delegate, assign or in any manner convey or mortgage, pledge or grant a security interest or other encumbrance of any kind in any of its rights, title or interest in and to, or duties under, all or any portion of the Sale Agreement or the Marketing Agreement without the prior written consent of Buyer (such consent not to be unreasonably withheld or delayed). Promptly, and in any event within [***] Business Days following receipt by Seller of a written request from Vertical for consent to assign or prior written notice of an assignment of the Sale Agreement or the Marketing Agreement (in whole or in part), Seller shall provide notice thereof to Buyer. Promptly (and in any event no later than [***] Business Days) following Seller's receipt of any fully executed assignment of the Sale Agreement or the Marketing Agreement by Vertical, Seller shall furnish a copy of such assignment to Buyer.

Section 7.8 Change of Control. In the event (a) either (i) Seller consummates a reverse merger or similar transaction whereby Seller issues a majority of its voting stock to the equityholders of a third party (which equityholders, in connection with such transaction, become the holders of a majority of the outstanding voting stock of Seller either at the closing of the merger or upon the subsequent conversion of securities issued in the merger) and such third party becomes a wholly-owned subsidiary of Seller or merges with the Seller (a "Reverse Merger") or (ii) immediately following a Change of Control, Seller or any of its Affiliates (excluding any acquiror of Seller, if applicable) is no longer the performing party under the Marketing Agreement, and (b) aggregate DoD Net Sales for the succeeding four calendar quarters (beginning with the first calendar quarter that begins following the calendar quarter in which the Reverse Merger or Change of Control, as applicable, occurs) are [***]% or more less than aggregate DoD Net Sales for the four calendar quarters ending on the last day of the calendar quarter in which the Reverse Merger or Change of Control, as applicable, occurs (or such shorter period from the time the first DoD Net Sales occurred to the last day of the calendar quarter in which the Reverse Merger or Change of Control, as applicable, occurs), then, following the Stepdown Date (x) clause (b)(i) of the definition of "Purchased Receivables" hereunder shall be deemed automatically modified, without any further action of the parties hereto, to replace each occurrence of "[***]" with "[***]"; and (y) clause (a) of the definition of "Retained Interests" hereunder shall be deemed automatically modified, without any further action of the parties hereto, to replace each occurrence of "[***]" with "[***]" (the "Change of Control Adjustment"). In addition, the parties

agree that in the event that Buyer has received payments of Purchased Receivables and Seller has received payments of Retained Interests, in each case after the Stepdown Date but prior to the time when a Change of Control Adjustment is determined to apply (collectively, the "Affected Receivables"), the parties agree to reconcile such Affected Receivables to the extent necessary to give effect to the Change of Control Adjustment as if it had been in effect as of the Stepdown Date by appropriately adjusting the amount of subsequent distributions from the Escrow Account of Purchased Receivables and Retained Interests.

As an example:

1. Change of Control (immediately following which, Seller or any of its Affiliates (excluding Seller's acquiror, if applicable) is no longer the performing party under the Marketing Agreement) occurs on February 1, 2025.

2. During the preceding four calendar quarters ending on the last day of the calendar quarter in which the Change of Control occurs (i.e., the four calendar quarters commencing April 1, 2024 and ending March 31, 2025), aggregate DoD Net Sales were $[***].

3. During the four succeeding calendar quarters commencing with the first calendar quarter that begins following the calendar quarter in which the Change of Control occurs (i.e., the four calendar quarters commencing April 1, 2025 and ending March 31, 2026), aggregate DoD Net Sales were $[***], which amount is determined on April 30, 2026, the date that Vertical provides the DoD Payment Report (as defined in the Marketing Agreement) for the calendar quarter ending March 31, 2026. Since the aggregate DoD Net Sales for the four succeeding calendar quarters of $[***] is [***]% or more lower than the $[***] of aggregate DoD Net Sales in the preceding four calendar quarters, the date of this determination, April 30, 2026, is the date that the Change of Control Adjustment is deemed to have occurred.

4. Stepdown Date occurred September 30, 2025.

5. Affected Receivables. Following the Stepdown Date (September 30, 2025) and prior to the time of the Change of Control Adjustment (April 30, 2026), Buyer received Purchased Receivables of $[***] and Seller received Retained Interests of $[***], all of which (for sake of simplicity in this example) were payments under Section 2.13 of the Sale Agreement and Section 5.a of the Marketing Agreement (and so each of Buyer and Seller received [***]% of the total $[***] of Affected Receivables for the period following September 30, 2025 and prior to April 30, 2026, in accordance with clause (b)(i) of the definition of Purchased Receivables and clause (a) of the definition of Retained Interests). To give effect to the Change of Control Adjustment in respect of the Affected Receivables, Buyer should have received [***]% of the $[***], or $[***] (i.e., Buyer should have received $[***] more than it received) and Seller should have received [***]% of the $[***], or $[***] (i.e., Seller should have received $[***] less than it received).

6. Reconciliation from Next Payment: For the calendar quarter ended June 30, 2026 and the corresponding payment to be made on July 31, 2026, there is $[***] paid to the Escrow Account and it is all (for sake of simplicity) payments under Section 2.13 of the Sale Agreement and Section 5.a of the Marketing Agreement. Giving effect to the Change of Control Adjustment for this quarter, the $[***] is allocated [***]% to Buyer ($[***]) and [***]% to Seller ($[***]). In addition, to reconcile for the Affected Receivables (i.e., to give effect to the Change of Control Adjustment for those Affected Receivables), the parties will instruct the Escrow Agent to deduct $[***] from the amount that would have been paid to Seller and instead pay that amount to Buyer, so that, for this payment distribution, the Escrow Agent will distribute to Buyer a total of $[***] and will distribute to Seller a total of $[***].

7. For succeeding payments of Purchased Receivables and Retained Interests, the distributions will be made giving effect to the Change of Control Adjustment (i.e., the [***]% Buyer / [***]% Seller split with respect to the applicable payments under clause (b)(i) of the Purchased Receivables definition and clause (a) of the Retained Interests definition).

ARTICLE VIII

INDEMNIFICATION

Section 8.1 Obligation of Parties to Indemnify.

(a) Indemnification by Seller. Subject to the limitations set forth in this Article VIII, from and after the Closing, Seller shall indemnify Buyer, its Affiliates, and their Representatives (each, a "Buyer Indemnified Party)" against any and all losses, liabilities, expenses (including reasonable and documented attorneys' fees and expenses in connection with any third party action, suit or proceeding) and damages (collectively, "Losses") incurred by such Buyer Indemnified Party, to the extent arising or resulting from any of the following:

(i) any breach of any representation or warranty made by Seller in the Transaction Documents;

(ii) any breach of any covenant or agreement of Seller contained in the Transaction Documents;

(iii) any Recipient Confidentiality Breach by any Person who receives Confidential Information from or on behalf of Seller under Section 6.1; and

(iv) the Excluded Assets and the Excluded Liabilities and Obligations.

The foregoing shall exclude any Losses of any Buyer Indemnified Party to the extent resulting from (A) the bad faith, gross negligence, intentional misrepresentation, willful misconduct or fraud of any Buyer Indemnified Party, (B) any matter in respect of which any Seller Indemnified Party would be entitled to indemnification under Section 8.1(b), or (C) acts or omissions of Seller taken (or omitted to be taken) based upon the express written instructions from any Buyer Indemnified Party. Any amounts determined to be due to any Buyer Indemnified Party hereunder in accordance with and subject to the terms, conditions and procedures of this Article VIII shall (if not otherwise paid) be payable by Seller to such Buyer Indemnified Party within [***] Business Days following written demand delivered to Seller by such Buyer Indemnified Party.

(b) Indemnification by Buyer. Subject to the limitations set forth in this Article VIII, from and after the Closing, Buyer shall indemnify Seller, its Affiliates, and their Representatives (each, a "Seller Indemnified Party") against any and all Losses incurred by such Seller Indemnified Party, to the extent arising or resulting from any of the following:

(i) any breach of any representation or warranty made by Buyer in the Transaction Documents;

(ii) any breach of any covenant or agreement of Buyer contained in the Transaction Documents; and

(iii) any Recipient Confidentiality Breach by any Person who receives Confidential Information from or on behalf of Buyer under Section 6.1.

The foregoing shall exclude any Losses of any Seller Indemnified Party to the extent resulting from (A) the bad faith, gross negligence, intentional misrepresentation, willful misconduct or fraud of any Seller Indemnified Party, (B) any matter in respect of which any Buyer Indemnified Party would be entitled to indemnification under Section 8.1(a), or (C) acts or omissions of Buyer taken (or omitted to be taken) based upon the express written instructions from any Seller Indemnified Party. Any amounts determined to be due to any Seller Indemnified Party hereunder in accordance with and subject to the terms, conditions and procedures of this Article VIII shall (if not otherwise paid) be payable by Buyer to such Seller Indemnified Party within [***] Business Days following written demand delivered to Buyer by such Seller Indemnified Party.

Section 8.2 Procedures Relating to Indemnification for Third Party Claims.

(a) Notice of Third Party Claim. In order for a party (an "Indemnified Party") to be entitled to any indemnification under this Article VIII in respect of Losses arising out of or involving a claim or demand made by any Person other than Buyer or Seller against a Buyer Indemnified Party or a Seller Indemnified Party, as applicable (a "Third Party Claim"), the Indemnified Party must notify the party from whom indemnification is sought under this Article VIII (the "Indemnifying Party") promptly in writing (including in such notice a brief description of the Third Party Claim, including damages sought or estimated, to the extent actually known or reasonably capable of estimation by the Indemnified Party); provided, however, that the failure to promptly provide such notice shall not affect the indemnification provided under this Article VIII except to the extent that the Indemnifying Party has been actually prejudiced as a result of such failure. Thereafter, the Indemnified Party shall deliver to the Indemnifying Party, promptly after the Indemnified Party's receipt thereof, copies of all documents (including court papers) received by the Indemnified Party relating to the Third Party Claim.

(b) Defense of Third Party Claims. The Indemnifying Party shall be entitled to participate in the defense of the Third Party Claim and, if it so chooses, to assume the defense thereof, at its own expense, with counsel selected by the Indemnifying Party; provided, that such counsel is not reasonably objected to by the Indemnified Party. If the Indemnifying Party elects to assume the defense of any Third Party Claim, the Indemnifying Party shall not be liable to the Indemnified Party for legal expenses subsequently incurred by the Indemnified Party in connection with the defense thereof, except that, if the Indemnifying Party and the Indemnified Party have conflicting interests or different defenses available with respect to such Third Party Claim, the Indemnified Party may hire its own separate counsel (provided that such counsel is not reasonably objected to by the Indemnifying Party) with respect to such Third Party Claim and the related action or suit, and the reasonable fees and expenses of such counsel shall be considered Losses for purposes of this Agreement. The Indemnifying Party shall permit the Indemnified Party to participate in, but not control, the defense of any such action or suit through counsel chosen by the Indemnified Party, provided that such counsel is not reasonably objected to by the Indemnifying Party and, except in the circumstances described in the immediately preceding sentence, the fees and expenses of such counsel shall be borne by the Indemnified Party. The Indemnifying Party shall be liable for the reasonable fees and expenses of counsel employed by the Indemnified Party in the defense of a Third Party Claim (which shall all be considered Losses for purposes of this Agreement) for any period during which the Indemnifying Party has not assumed the defense thereof (other than during the period prior to the time the Indemnified Party shall have notified the Indemnifying Party of such Third Party Claim).

(c) Cooperation. The parties hereto shall cooperate in the defense or prosecution of any Third Party Claim, with such cooperation to include (i) the retention of and the provision to the Indemnifying Party of records and information that are reasonably relevant to such Third Party Claim and (ii) the making available of employees on a mutually convenient basis for providing additional information and explanation of any material provided hereunder. Neither the Indemnified Party nor the Indemnifying Party shall consent (such consent not to be unreasonably withheld or delayed) to the entry of any judgment, settlement, compromise or discharge of such Third Party Claim without the prior written consent of the other; provided that the consent of the Indemnified

Party shall not be required if such judgment, settlement, compromise or discharge (A) does not involve any non-monetary penalties (other than customary and reasonable confidentiality obligations relating to such claim, judgment, settlement, compromise or discharge), (B) results in the complete and unconditional release of the Indemnified Party from all liabilities arising out of, relating to or in connection with such Third Party Claim and (C) does not involve a finding or admission of any fault, culpability, failure to act, violation of any law, rule, regulation or judgment, or the rights of any Person by the Indemnified Party, and has no effect on any other claims that may be made against the Indemnified Party.

Section 8.3 Procedures Relating to Indemnification for Other Claims. In order for an Indemnified Party to be entitled to any indemnification under this Article VIII in respect of Losses that do not arise out of or involve a Third Party Claim, the Indemnified Party must notify the Indemnifying Party promptly in writing (a "Claim Notice") (including in such notice a brief description of the claim for indemnification and the Loss, including damages sought or estimated, to the extent actually known or reasonably capable of estimation by the Indemnified Party (the "Claim Amount")); provided, however, that the failure to promptly provide such notice shall not affect the indemnification provided under this Article VIII except to the extent that the Indemnifying Party has been actually prejudiced as a result of such failure. Within [***] Business Days after delivery of a Claim Notice, the Indemnifying Party shall deliver to the Indemnified Party a written response (a "Claim Notice Response") in which the Indemnifying Party shall either (a) agree that the Indemnified Party is entitled to receive the Claim Amount (in which case such response shall be accompanied by a payment to the Indemnified Party of the Claim Amount by the Indemnifying Party by wire transfer of immediately available funds); (b) agree that the Indemnified Party is entitled to receive part, but not all, of the Claim Amount (the amount so agreed in (a) or (b), the "Agreed Amount") (in which case such response shall be accompanied by a payment to the Indemnified Party of the Agreed Amount by the Indemnifying Party by wire transfer of immediately available funds); or (c) contest that the Indemnified Party is entitled to receive any of the Claim Amount. If any such dispute described in clauses (b) or (c) of the preceding sentence is not resolved within [***] Business Days following the delivery by the Indemnifying Party of a Claim Notice Response, the Indemnifying Party and the Indemnified Party shall each have the right to submit such dispute to a court of competent jurisdiction in accordance with the provisions of Section 10.11. If the Indemnifying Party does not deliver a timely Claim Notice Response to the Indemnified Party in accordance with the preceding sentence notifying the Indemnified Party that the Indemnifying Party disputes its liability to the Indemnified Party with respect to the Claim Amount in whole or in part or delivers a timely Claim Notice Response that disputes its liability to the Indemnified Party with respect to the Claim Amount only in part, in each case in accordance with this Section 8.3, such Claim Amount specified by the Indemnified Party in such Claim Notice, to the extent liability for such Claim Amount has not been timely disputed in a Claim Notice Response, shall be conclusively deemed a liability of the Indemnifying Party under Section 8.1(a) or Section 8.1(b), as applicable, and the Indemnifying Party shall pay the amount of such undisputed liability to the Indemnified Party promptly upon request or, in the case of any Claim Notice in which the amount of the claim (or any portion thereof) is estimated, on such later date when the amount of such claim (or such portion thereof) becomes finally determined. For all purposes of this Section 8.3, Seller shall be entitled to deliver Claim Notices to Buyer on behalf of the Seller Indemnified Parties, and Buyer shall be entitled to deliver Claim Notices to Seller on behalf of the Buyer Indemnified Parties.

Section 8.4 Limitations on Indemnification. Notwithstanding anything in this Agreement to the contrary, the aggregate amount of all Losses for which Seller or Buyer shall be liable hereunder pursuant to Section 8.1(a)(i) or Section 8.1(b)(i), respectively, shall not exceed an amount equal to the sum of: (a) [***]% of the Purchase Price, minus the Purchased Receivables actually received by Buyer, and (b) fees and expenses incurred by Buyer in enforcing its rights hereunder to the extent such fees and expenses are indemnifiable Losses under Section 8.1(a); provided that the limitations set forth in this Section 8.4 shall not apply to (i) breaches of any Fundamental Representations or (ii) Losses arising out of any bad faith, gross negligence, fraud, intentional misrepresentation or willful misconduct.

Section 8.5 Survival of Representations and Warranties. The representations and warranties contained in this Agreement shall survive the Closing solely for purposes of Section 8.1 and shall terminate on the date that is [***] years following the Closing Date; provided, however, that the Fundamental Representations shall survive until [***] days following the expiration of all applicable statutes of limitations (giving effect to any waiver, mitigation or extension thereof). No party hereto shall have any liability or obligation of any nature with respect to any representation or warranty after the termination thereof, unless the other party hereto shall have delivered a notice to such party, pursuant to Section 8.2(a) or Section 8.3, claiming such a liability or obligation under Section 8.1, prior to the expiration of the applicable survival period set forth in the preceding sentence.

Section 8.6 No Implied Representations and Warranties; Access to Information.

(a) BUYER ACKNOWLEDGES AND AGREES THAT, (I) OTHER THAN THE EXPRESS REPRESENTATIONS AND WARRANTIES OF SELLER SPECIFICALLY CONTAINED IN ARTICLE IV, THERE ARE NO REPRESENTATIONS OR WARRANTIES OF SELLER OR ANY OTHER PERSON EITHER EXPRESSED OR IMPLIED WITH RESPECT TO THE PURCHASED RECEIVABLES OR THE SALE AGREEMENT OR THE TRANSACTIONS CONTEMPLATED BY THE TRANSACTION DOCUMENTS OR OTHERWISE; (II) BUYER SHALL HAVE NO REMEDIES IN RESPECT OF, ANY REPRESENTATION OR WARRANTY NOT SPECIFICALLY SET FORTH IN ARTICLE IV; AND (III) ALL OTHER REPRESENTATIONS AND WARRANTIES, WHETHER ARISING BY OPERATION OF LAW OR OTHERWISE, INCLUDING WITH RESPECT TO IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE, OR THE PROSPECTS OR LIKELIHOOD OF COMMERCIAL SUCCESS OF THE PRODUCT, ARE HEREBY EXPRESSLY DISCLAIMED BY SELLER. SELLER MAKES NO REPRESENTATION OR WARRANTY THAT THE PRODUCT WILL BE COMMERCIALIZED IN ANY COUNTRY OR ACHIEVE ANY PARTICULAR SALES LEVEL, WHETHER IN ANY INDIVIDUAL COUNTRY OR CUMULATIVELY THROUGHOUT THE WORLD. BUYER FURTHER ACKNOWLEDGES AND AGREES THAT SELLER HAS NO RIGHTS OR RESPONSIBILITIES OF ANY KIND WITH RESPECT TO, AND BY VIRTUE OF THE TRANSACTIONS CONTEMPLATED BY THE TRANSACTION DOCUMENTS HAS NOT BECOME ENTITLED TO ANY RIGHTS OR ASSUMED ANY RESPONSIBILITIES OF ANY KIND WITH RESPECT TO, THE REGULATORY SUBMISSIONS FOR AND USE, SALE, DISTRIBUTION, MARKETING OR OTHER COMMERCIALIZATION ACTIVITIES WITH RESPECT TO THE PRODUCT, ALL OF THE RIGHTS AND RESPONSIBILITY FOR WHICH IS WITH VERTICAL, EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THE MARKETING AGREEMENT. BUYER FURTHER ACKNOWLEDGES AND AGREES THAT SELLER SHALL HAVE NO LIABILITY TO BUYER (EXCEPT AS OTHERWISE PROVIDED HEREUNDER) WITH RESPECT TO ANY ACT OR OMISSION OF VERTICAL RELATING TO SUCH REGULATORY SUBMISSIONS AND USE, SALE, DISTRIBUTION, MARKETING OR OTHER COMMERCIALIZATION ACTIVITIES.

(b) BUYER ACKNOWLEDGES AND AGREES THAT BUYER HAS MADE ITS OWN INVESTIGATION OF THE PURCHASED RECEIVABLES, THE SALE AGREEMENT, THE MARKETING AGREEMENT, THE OTHER RELATED AGREEMENTS AND THE TRANSACTIONS CONTEMPLATED BY THE TRANSACTION DOCUMENTS AND HAS HAD THE OPPORTUNITY TO ASK SUCH QUESTIONS OF, AND TO RECEIVE ANSWERS FROM, REPRESENTATIVES OF SELLER CONCERNING THE SALE AGREEMENT, THE MARKETING AGREEMENT, THE OTHER RELATED AGREEMENTS, THE TRANSACTION DOCUMENTS, THE PURCHASED RECEIVABLES AND THE TRANSACTIONS CONTEMPLATED BY THE TRANSACTION DOCUMENTS, IN EACH CASE AS IT DEEMED NECESSARY TO MAKE AN INFORMED DECISION TO PURCHASE THE PURCHASED RECEIVABLES IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT. BUYER ACKNOWLEDGES AND AGREES THAT (I) IT SHALL HAVE NO REMEDIES IN RESPECT OF, ANY IMPLIED WARRANTIES AND THAT NO REPRESENTATION OR WARRANTY IS MADE AS TO THE

FUTURE AMOUNT OR POTENTIAL AMOUNT OF THE PURCHASED RECEIVABLES, OR AS TO THE CREDITWORTHINESS OF VERTICAL (OR ANY OF ITS AFFILIATES) AND (II) EXCEPT AS EXPRESSLY SET FORTH IN ANY REPRESENTATION OR WARRANTY IN ARTICLE IV, BUYER SHALL HAVE NO CLAIM OR RIGHT REGARDING LOSSES PURSUANT TO THIS ARTICLE VIII (OR OTHERWISE) WITH RESPECT TO ANY INFORMATION, DOCUMENTS OR MATERIALS FURNISHED OR MADE AVAILABLE TO BUYER IN ANY DATA ROOM, PRESENTATION, INTERVIEW OR IN ANY OTHER FORM OR MANNER RELATING TO THE TRANSACTIONS CONTEMPLATED BY THE TRANSACTION DOCUMENTS, THE SALE AGREEMENT, THE MARKETING AGREEMENT OR THE OTHER RELATED AGREEMENTS. NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, CLAIMS FOR BAD FAITH, GROSS NEGLIGENCE, FRAUD, INTENTIONAL MISREPRESENTATION OR WILLFUL MISCONDUCT SHALL NOT BE WAIVED OR LIMITED BY THIS SECTION 8.6.

Section 8.7 Exclusive Remedy. Except in the case of (a) breaches or threatened breaches of Section 6.1, (b) the parties' rights to recoupment under Section 7.4(b)(iv) and Section 7.6(c) and (c) Section 10.14 (including for the avoidance of doubt, for purposes of Section 6.1), the parties hereto acknowledge and agree that, from and after the Closing, the indemnification afforded by this Article VIII shall be the sole and exclusive remedy for any and all Losses awarded against or incurred or suffered by a party in connection with the transactions set forth in the Transaction Documents, including with respect to any breach of any representation or warranty made by a party in any of the Transaction Documents or any certificate delivered by a party to the other party in writing pursuant to this Agreement or any breach of or default under any covenant or agreement by a party pursuant to any Transaction Document, except that any claim or matter based upon bad faith, gross negligence, fraud, intentional misrepresentation or willful misconduct shall not be subject to or limited by this Article VIII.

Section 8.8 Limitations on Damages. Notwithstanding anything to the contrary in this Agreement or any other Transaction Document, in no event shall either party hereto be liable (including, without limitation, under Section 8.1) for any (a) special, indirect, incidental, exemplary, punitive, multiple or consequential damages or (b) loss of use, business interruption, loss of any contract or other business opportunity or good will, in each case, of the other party hereto (other than any such damages or losses included in Losses for Purchased Receivables that Buyer was entitled to receive but did not receive timely or at all due to indemnifiable events under this Agreement or occasioned by any breach of the covenants or agreements set forth in Section 6.1), whether or not caused by or resulting from the actions of such party or the breach of its covenants, agreements, representations or warranties under any of the Transaction Documents (except as aforesaid) and whether in contract, tort or breach of statutory duty or otherwise, even if such party has been advised of the possibility of such damages. In connection with the foregoing, the parties hereto acknowledge and agree that (i) Buyer's damages, if any, for any such action or claim will include Losses for Purchased Receivables that Buyer was entitled to receive or would have received absent such breach, in each case in respect of its ownership of the Purchased Receivables, as well as expenses incurred in connection with Buyer's enforcement of this Agreement related to such breach, and (ii) Buyer shall be entitled to make claims for all such missing, delayed or diminished Purchased Receivables as Losses hereunder, and such missing, delayed or diminished payments shall not be deemed (A) special, indirect, incidental, exemplary, punitive, multiple or consequential damages or (B) loss of use, business interruption, loss of any contract or other business opportunity or good will.

ARTICLE IX

TERMINATION

Section 9.1 Termination of Agreement.

(a) This Agreement may be terminated at any time prior to the Closing Date by Buyer upon the occurrence of a Seller Material Adverse Effect.

(b) Following the Closing, this Agreement shall continue in full force and effect until the date on which Buyer has received the last payment with respect to the Purchased Receivables, at which time this Agreement shall automatically terminate.

Section 9.2 Effect of Termination.

(a) Upon the termination of this Agreement pursuant to Section 9.1(a), this Agreement shall become void and of no further force and effect, except for any rights, obligations or claims of either party that have accrued prior to termination; provided, however, that (i) the provisions of Article I (Definitions; Interpretation), Section 6.1 (Confidentiality) (only for the period set forth in Section 6.1(a)), Section 6.6 (Public Announcements), this Section 9.2 (Effect of Termination) and Article X (Miscellaneous) shall survive such termination and shall remain in full force and effect and (ii) nothing contained in this Section 9.2 shall relieve either party from liability for any breach of this Agreement that occurs prior to termination.

(b) Upon the termination of this Agreement pursuant to Section 9.1(b), this Agreement shall become void and of no further force and effect, except for any rights, obligations or claims of either party that have accrued prior to termination; provided, however, that (i) the provisions of Article I (Definitions; Interpretation), Section 6.1 (Confidentiality) (only for the period set forth in Section 6.1(a)), Section 6.2 (Taxes), Section 6.6 (Public Announcements), Section 7.2 (Misdirected Payments), Section 7.4(b) (Audits) (only until the date that is [***] years after the termination date), Article VIII (Indemnification), this Section 9.2 (Effect of Termination) and Article X (Miscellaneous) shall survive such termination and shall remain in full force and effect, (ii) if, upon the termination of this Agreement, any payments of the Purchased Receivables or other amounts are payable to Buyer hereunder, this Agreement shall remain in full force and effect until any and all such payments have been made in full, and (except as provided in this Section 9.2) solely for that purpose, and (c) termination shall not relieve either party from liability for any breach of this Agreement that occurs prior to termination.

ARTICLE X

MISCELLANEOUS

Section 10.1 Headings. The captions to the Articles, Sections and subsections hereof are not a part of this Agreement but are for convenience only and shall not be deemed to limit or otherwise affect the construction thereof.

Section 10.2 Notices. All notices and other communications under this Agreement shall be in writing and shall be sent by email with PDF attachment, courier or personal delivery to the following addresses, or to such other addresses as shall be designated from time to time by a party hereto in accordance with this Section 10.2.

If to:	Address:
Seller	Talphera, Inc. 1850 Gateway Dr. #175 San Mateo, CA 94404 *Attention*: [***] Email: [***]
with a copy to:	Cooley LLP 10265 Science Center Drive

If to:	Address:
	San Diego, CA 92121 *Attention*: Matthew Browne Email: mbrowne@cooley.com
Buyer	XOMA (US) LLC 2200 Powell Street Suite 310 Emeryville, CA 94608 *Attention*: [***] Email: [***]
with a copy to:	Gibson, Dunn & Crutcher LLP One Embarcadero Center, Suite 2600 San Francisco, CA 94111 *Attention*: Ryan Murr; Todd Trattner Email: rmurr@gibsondunn.com; ttrattner@gibsondunn.com

All notices and communications under this Agreement shall be effective upon receipt by the addressee. Notwithstanding anything to the contrary in this Section 10.2, all notices and communications under Section 8.2(a) and Section 8.3 and all service of legal process shall be sent by courier or personal delivery.

Section 10.3 No Personal Liability. It is expressly understood and agreed by Seller and Buyer that:

(a) each of the representations, warranties, covenants and agreements in the Transaction Documents made on the part of Seller is made by Seller and is not intended to be nor is a personal representation, warranty, covenant or agreement of any other Person, including those Persons named in the definition of "Knowledge of Seller" and any other Representative of Seller or Seller's Affiliates (the "Non-Warranting Parties");

(b) other than Seller, no Person, including the Non-Warranting Parties, shall have any liability whatsoever for breach of any representation, warranty, covenant or agreement made in the Transaction Documents on the part of Seller or in respect of any claim or matter arising out of, relating to or in connection with the Transaction Documents or the transactions contemplated thereby; and

(c) the provisions of this Section 10.3 are intended to benefit each and every one of the Non-Warranting Parties and shall be enforceable by each and every one of them to the fullest extent permitted by Applicable Law.

Section 10.4 Expenses. Except as otherwise expressly provided in this Agreement or any Transaction Document, each of Seller and Buyer shall bear its own fees and expenses with respect to this Agreement and the Transaction Documents and the transactions contemplated by this Agreement and the Transaction Documents; provided, however, that (a) in the event of a termination pursuant to Section 9.1(a), Seller will reimburse Buyer for any reasonable and documented out-of-pocket fees and expenses regarding the transactions contemplated hereby by or on behalf of, or paid directly by, Buyer (the "Buyer Transaction Expenses") incurred prior to such termination up to $[***]; or (b) on the Closing Date, Seller will reimburse Buyer for any Buyer Transaction Expenses up to $[***], and in each case ((a) and (b)) Seller shall have the right to set-off the $[***] deposit provided to Buyer upon the execution of the term sheet, to the extent such deposit was actually paid.

Section 10.5 Assignment. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns. Seller shall not be entitled to assign any of its obligations and rights under this Agreement to any non-Affiliate of Seller without: (a) the prior written consent of Buyer, such consent not to be unreasonably withheld, and (b) requiring any such non-Affiliate to agree in writing to be bound by the terms of this Agreement; provided, however, the consent of Buyer shall not be required for Seller to assign its rights and delegate its obligations under this Agreement to any Person into which Seller may merge, with which it may consolidate or to which it may sell all or substantially all of its assets. Seller may assign any of its obligations and rights under this Agreement to Seller's Affiliates, provided that Seller promptly thereafter notifies Buyer and any such assignee agrees in writing to be bound by the terms of this Agreement. Buyer may assign this Agreement and all of Buyer's rights, interests and obligations hereunder, in whole or in part, to any Person(s), provided that Buyer promptly thereafter notifies Seller and any such assignee agrees in writing to be bound by the terms of this Agreement, including, for clarity, the confidentiality and non-use obligations of Buyer pursuant to Section 6.1 (and, if such assignee is an Affiliate of Buyer's and the assignment is not in connection with a sale of all or substantially all of Buyer's business, by merger, sale of assets or otherwise, Buyer shall remain liable to Seller for its obligations to Seller hereunder (and Seller shall be entitled to seek recovery for any breach or default of an obligation hereunder from Buyer or from such Affiliate assignee)). Any purported assignment in violation of this Section 10.5 shall be null and void. For the avoidance of doubt, no assignment by Buyer will operate to expand the obligations of Seller under this Agreement, including with respect to Indemnified Taxes.

Section 10.6 Amendment and Waiver.

(a) This Agreement may be amended, modified or supplemented only in a writing signed by all of the parties hereto. Any provision of this Agreement may be waived only in a writing, which writing may be signed only by the party granting such waiver.

(b) No failure or delay on the part of any party hereto in exercising any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy. No course of dealing between the parties hereto shall be effective to amend, modify, supplement or waive any provision of this Agreement.

Section 10.7 Entire Agreement. This Agreement, including the Exhibits and Schedules attached to this Agreement, sets forth the entire agreement and understanding between the parties hereto as to the subject matter hereof. All express or implied agreements, promises, assurances, arrangements, representations, warranties and understandings as to the subject matter hereof, whether oral or written, heretofore made are superseded by this Agreement.

Section 10.8 Independent Contractors. The parties hereto recognize and agree that the relationship between Seller and Buyer is solely that of seller and buyer, each is operating as an independent contractor and not as an agent, partner or fiduciary of any other, and neither Seller nor Buyer has any fiduciary or other special relationship with the other party hereto or any of its Affiliates. Nothing contained in this Agreement or in any other Transaction Document shall be deemed for any purpose (including tax purposes) to constitute Seller and Buyer as a partnership, agency, an association, a joint venture or any other kind of entity or legal form.

Section 10.9 No Third Party Beneficiaries. Except to the extent otherwise contemplated by Section 10.3, this Agreement is for the sole benefit of Seller and Buyer and their respective permitted successors and assigns, and nothing herein expressed or implied shall give or be construed to give to any Person, other than the parties hereto and such successors and assigns, any legal or equitable rights hereunder. For the avoidance of doubt,

indemnification under Article VIII in respect of Losses incurred by a Buyer Indemnified Party or a Seller Indemnified Party may only be enforced by Buyer or Seller, respectively, and not by any other Person.

Section 10.10 Governing Law. This Agreement shall be governed exclusively by the laws of the State of New York, United States of America, without regard to any conflict of law provisions that would dictate the application of the law of another jurisdiction.

Section 10.11 Jurisdiction; Venue; Service Of Process; Waiver of Jury Trial. Each party hereto irrevocably submits to the exclusive jurisdiction of (a) state courts of the State of California sitting in the City of San Francisco and (b) the United States District Court for the Northern District of California for the purposes of any action, suit or other proceeding arising out of, relating to or in connection with this Agreement or any transaction contemplated hereby. Each party hereto agrees to commence any action, suit or other proceeding arising out of, relating to or in connection with this Agreement or any transaction contemplated hereby in the state courts of the State of California sitting in the City of San Francisco, or, if such action, suit or other proceeding may not be brought in such court for jurisdictional reasons, in the United States District Court for the Northern District of California. Each party hereto further agrees that service of any process, summons, notice or document by courier or personal delivery in accordance with Section 10.2 shall be effective service of process for any action, suit or other proceeding in California with respect to any matters to which it has submitted to jurisdiction in this Section 10.11. Each party hereto irrevocably and unconditionally waives any objection to the laying of venue of any action, suit or other proceeding arising out of, relating to or in connection with this Agreement or any transaction contemplated hereby in (i) state courts of the State of California sitting in the City of San Francisco or (ii) the United States District Court for the Northern District of California, and hereby further irrevocably and unconditionally waives, and shall not assert by way of motion, defense, or otherwise, in any such action, suit or other proceeding, any claim that it is not subject personally to the jurisdiction of the above-named courts, that its property is exempt or immune from attachment or execution, that such action, suit or other proceeding is brought in an inconvenient forum, that the venue of such action, suit or other proceeding is improper, or that this Agreement or the transactions contemplated hereby may not be enforced in or by any of the above-named courts. EACH PARTY HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY ACTION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT, OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT, OR ANY OTHER THEORY). EACH PARTY (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF THE OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT THE OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTY HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 10.11.

Section 10.12 Severability. If any term or provision of this Agreement is held to be invalid, illegal or unenforceable by a court or other Governmental Authority of competent jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement, which shall remain in full force and effect, and the parties hereto shall replace such term or provision with a new term or provision permitted by Applicable Law and having an economic effect as close as possible to the invalid, illegal or unenforceable term or provision. The holding of a term or provision to be invalid, illegal or unenforceable in a jurisdiction shall not have any effect on the application of the term or provision in any other jurisdiction.

Section 10.13 Counterparts. This Agreement may be executed in any number of counterparts and by the parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement. Copies of executed counterparts transmitted by email with PDF attachment shall be considered original executed counterparts.

Section 10.14 Specific Performance. Each of the parties hereto acknowledges that the other party hereto may have no adequate remedy at law if it fails to perform any of its obligations under any of the Transaction Documents and may be damaged irreparably in the event any of the provisions of this Agreement (including, for clarity, Section 6.1) are not performed in accordance with its specific terms or otherwise are breached or violated (including, for clarity, any actual or threatened breach of Section 6.1 by Buyer or Seller, any of their respective Affiliates or any of their or their Affiliates' respective Representatives). In such event, the parties agree that the other party shall have the right, without posting bond or other undertaking, to seek an injunction or injunctions to prevent breaches or violations of the provisions of this Agreement (including, in the case of Section 6.1, threatened breach) and to enforce specifically this Agreement and the terms and provisions hereof in any action instituted pursuant to Section 10.11, in addition to any other remedy to which it may be entitled, at law or in equity. Each party further agrees that, in the event of any action for specific performance in respect of such breach or violation (including, in the case of Section 6.1, threatened breach), it will not assert, and irrevocably waives the defense that a bond or other security will be required. For the avoidance of doubt, such remedy shall not be deemed to be an exclusive remedy with respect to any of the breaches to which it relates but shall be in addition to all other rights and remedies available at law or equity to Seller or Buyer (as applicable).

[*Signature Page Follows*]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective representatives thereunto duly authorized as of the date first above written.

SELLER:

TALPHERA, INC.

By: /s/ Vincent J. Angotti
Name: Vincent J. Angotti
Title: Chief Executive Officer

BUYER:

XOMA (US) LLC

By: /s/ Bradley Sitko
Name: Bradley Sitko
Title: Chief Investment Officer

EXHIBIT A
TO PAYMENT INTEREST PURCHASE AGREEMENT

FORM OF BILL OF SALE

[***]

EXHIBIT B
TO PAYMENT INTEREST PURCHASE AGREEMENT

DISCLOSURE SCHEDULES

[***]

EXHIBIT C
TO PAYMENT INTEREST PURCHASE AGREEMENT

VERTICAL NOTICE AND WAIVER

[***]

EXHIBIT D
TO PAYMENT INTEREST PURCHASE AGREEMENT

VERTICAL INSTRUCTION LETTER

[***]

EXHIBIT E
TO PAYMENT INTEREST PURCHASE AGREEMENT

LEGAL OPINION

[***]

EXHIBIT F
TO PAYMENT INTEREST PURCHASE AGREEMENT

SALE AGREEMENT AND MARKETING AGREEMENT

[***]

Exhibit 10.3

CERTAIN IDENTIFIED INFORMATION HAS BEEN EXCLUDED (INDICATED BY: [***]) FROM THE EXHIBIT BECAUSE IT IS BOTH (I) NOT MATERIAL AND (II) THE TYPE OF INFORMATION THAT THE REGISTRANT CUSTOMARILY AND ACTUALLY TREATS AS PRIVATE OR CONFIDENTIAL

AMENDMENT NO. 1 TO ROYALTY PURCHASE AGREEMENT

This Amendment No. 1 to Royalty Purchase Agreement (this "**Amendment**") is entered into as of March 4, 2024 (the **"Amendment Effective Date**") by and between VIRACTA THERAPEUTICS, INC., a corporation organized and existing under the laws of Delaware, with an office located at 2533 South Coast Highway 101, #210, Cardiff CA 92007 ("**Viracta**"), VIRACTA ROYALTY FUND, LLC, a Delaware limited liability company (collectively, with Viracta, "**Seller**"), and XOMA (US) LLC, a Delaware limited liability company with its principal place of business at 2200 Powell Street, Suite 310, Emeryville, California 94608 ("**Purchaser**"). Seller and Purchaser are referred to in this Amendment individually as a "Party" and collectively as the "Parties". Capitalized terms used herein and not otherwise defined shall have the respective meanings given to such terms in the Royalty Purchase Agreement (defined below).

RECITALS

WHEREAS, Seller and Purchaser entered into that certain Royalty Purchase Agreement dated as of March 22, 2021, as supplemented by that certain Letter Agreement dated March 22, 2021, as amended by that certain Joinder and Amendment to Royalty Purchase Agreement dated March 22, 2021, as may be further amended, modified or supplemented from time to time (collectively, the "**Royalty Purchase Agreement**"), which provides for, among other things, a sale of certain of Seller's royalty payments to Purchaser;

WHEREAS, Viracta (successor in interest to Sunesis Pharmaceuticals, Inc.) is monetizing its interest in certain payments from the sale or use of [***] under Section 6.2.1(a) of that certain License Agreement For Raf, effective as of December 16, 2019, by and between Viracta and Day One Biopharmaceuticals, Inc., successor in interest to DOT Therapeutics-1, Inc. ("**Day One**"), as amended by that certain Amendment No. 1 to License Agreement for RAF dated March 4, 2024, as may be further amended, modified or supplemented from time to time (collectively, the "**Day One License Agreement**");

WHEREAS, pursuant to Section 8.12 of the Royalty Purchase Agreement, the Parties desire to amend the Royalty Purchase Agreement in accordance with the terms set forth in this Amendment.

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants contained herein, the Parties hereby agree to be legally bound as follows:

1. The proviso at the end of the definition of "Day One Royalty Payments" in Section 1.1 of the Royalty Purchase Agreement is hereby deleted in its entirety and replaced as follows:

   "provided however that the Net Consideration payable by Day One pursuant to Section [***] of the Day One License Agreement shall be allocated among [***]."

2. Within sixty (60) days of the Amendment Effective Date, Seller shall use Commercially Reasonable Efforts to, and shall use Commercially Reasonable Efforts to cause its applicable Affiliates or subsidiaries (such Affiliates and subsidiaries, together with Seller, the "**Seller Group**") to, (a) assign to Purchaser all of Seller Group's right, title and interest in and to the Day One License Agreement and (b) sell, transfer, convey, assign and deliver to Purchaser all of Seller Group's right, title and interest in and to the Sunesis Licensed Technology (as defined in the Day One License Agreement).

3. The provisions of Sections 8.3-8.8, and Sections 8.10-8.15 of the Royalty Purchase Agreement are hereby incorporated by reference into this Amendment, *mutatis mutandis*.

4. Except as expressly amended by this Amendment, all other terms of the Royalty Purchase Agreement shall continue in full force and effect and in accordance with its terms.

(The remainder of this page is intentionally left blank. The signature page follows.)

In Witness Whereof, the parties hereto have caused this Amendment No. 1 to Royalty Purchase Agreement to be executed as of the date first set forth above.

SELLER	PURCHASER
VIRACTA THERAPEUTICS, INC.	**XOMA (US) LLC**
By: /s/ Daniel R. Chevallard	By: /s/ Bradley Sitko
Name: Daniel R. Chevallard	Name: Bradley Sitko
Title: COO & CFO	Title: Chief Investment Officer

VIRACTA ROYALTY FUND, LLC

By: /s/ Daniel R Chevallard

Name: Daniel R Chevallard

Title: President

[*Signature Page to Amendment No. 1 to Royalty Purchase Agreement*]

Exhibit 31.1

Certification

I, Owen Hughes, certify that:

1. I have reviewed this quarterly report on Form 10-Q of XOMA Corporation;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officers 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))) for the registrant and we 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 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 officers 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 registrant's board of directors (or persons performing the equivalent function):

   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: May 9, 2024

/s/ OWEN HUGHES

Owen Hughes

Chief Executive Officer (Principal Executive Officer)

Exhibit 31.2

Certification

I, Thomas Burns, certify that:

1. I have reviewed this quarterly report on Form 10-Q of XOMA Corporation;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officers 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))) for the registrant and we 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 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 officers 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 registrant's board of directors (or persons performing the equivalent function):

   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: May 9, 2024

/s/ THOMAS BURNS

Thomas Burns

Senior Vice President, Finance and Chief Financial Officer

Exhibit 32.1

CERTIFICATION

Pursuant to the requirement set forth in Rule 13a-14(b) of the Securities Exchange Act of 1934, as amended, (the "Exchange Act") and Section 1350 of Chapter 63 of Title 18 of the United States Code (18 U.S.C. §1350), Owen Hughes, Executive Chairman of the Board of Directors and Interim Chief Executive Officer of XOMA Corporation (the "Company"), and Thomas Burns, Senior Vice President, Finance and Chief Financial Officer of the Company, each hereby certifies that, to the best of his or her knowledge:

1. The Company's Quarterly Report on Form 10-Q for the three months ended March 31, 2024, to which this Certification is attached as Exhibit 32.1, fully complies with the requirements of Section 13(a) or Section 15(d) of the Exchange Act; and
2. The information contained in Exhibit 32.1 fairly presents, in all material respects, the financial condition and results of operations of the Company.

IN WITNESS WHEREOF, the undersigned have set their hands hereto as of the 9th day of May, 2024

/s/ OWEN HUGHES

Owen Hughes

Chief Executive Officer (Principal Executive Officer)

/s/ THOMAS BURNS

Thomas Burns

Senior Vice President, Finance and Chief Financial Officer

3. This certification accompanies the Form 10-Q to which it relates, is not deemed filed with the Securities and Exchange Commission and is not to be incorporated by reference into any filing of XOMA Corporation 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 the Form 10-Q), irrespective of any general incorporation language contained in such filing.