Table of Contents

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, 2023

OR

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

For the transition period from _____to_____

Commission File No. 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 4, 2023, the registrant had 11,461,068 shares of common stock, $0.0075 par value per share, outstanding.

XOMA CORPORATION

FORM 10-Q

TABLE OF CONTENTS

		Page
Glossary of Terms and Abbreviations		1
PART I	**FINANCIAL INFORMATION**	
Item 1.	Condensed Consolidated Financial Statements	4
	Condensed Consolidated Balance Sheets as of March 31, 2023 (unaudited) and December 31, 2022	4
	Condensed Consolidated Statements of Operations and Comprehensive Loss for the Three Months Ended March 31, 2023 and 2022 (unaudited)	5
	Condensed Consolidated Statements of Stockholders' Equity for the Three Months Ended March 31, 2023 and 2022 (unaudited)	6
	Condensed Consolidated Statements of Cash Flows for the Three Months Ended March 31, 2023 and 2022 (unaudited)	7
	Notes to Condensed Consolidated Financial Statements (unaudited)	8
Item 2.	Management's Discussion and Analysis of Financial Condition and Results of Operations	36
Item 3.	Quantitative and Qualitative Disclosures About Market Risk	42
Item 4.	Controls and Procedures	42
PART II	**OTHER INFORMATION**	42
Item 1.	Legal Proceedings	42
Item 1A.	Risk Factors	42
Item 2.	Unregistered Sales of Equity Securities and Use of Proceeds	73
Item 3.	Defaults Upon Senior Securities	73
Item 4.	Mine Safety Disclosure	73
Item 5.	Other Information	73
Item 6.	Exhibits	74
Signatures		76

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
'40 Act	Investment Company Act of 1940
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
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 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 730	ASC Topic 730, Research and Development
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
BLA	Biologic License Application
Black-Scholes Model	Black-Scholes Option Pricing Model
B. Riley	B. Riley Securities, Inc.
BVF	Biotechnology Value Fund, L.P.
CCPA	California Consumer Privacy Act of 2018, collectively the Act and its regulations
CARES	Coronavirus Aid, Relief, and Economic Security
cGMP	current Good Manufacturing Practice
Chiesi	Chiesi Farmaceutici S.p.A.
Chiron	Chiron Corporation
Chiron Collaboration Agreement	the Company's Collaboration Agreement with Chiron dated February 27, 2004, as amended in May 2005, July 2008 and September 2015
Company	XOMA Corporation, including subsidiaries

CPPA	Commercial Payment Purchase Agreement
CPRA	California Privacy Rights Act
EC	European Commission
EMA	European Medicines Agency
ESPP	2015 Employee Stock Purchase Plan, as amended
EU	European Union
FCPA	U.S. Foreign Corrupt Practices Act of 1977, as amended
FDA	U.S. Food and Drug Administration
FDIC	Federal Deposit Insurance Corporation
GAAP	Generally accepted accounting principles
G&A	General and administrative
GDPR	General Data Protection Regulation
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
HIPAA	Federal Health Insurance Portability and Accountability Act of 1996
ICE®	Innate cell engager
IP	Intellectual Property
Janssen	Janssen Biotech, 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
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
NIH	National Institutes of Health
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.
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
SOX	Sarbanes-Oxley Act of 2002
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
TGFβ	transforming growth factor beta
VABYSMO®	faricimab-svoa
Viracta	Viracta Therapeutics, Inc.
Viracta RPA	the Company's Royalty Purchase Agreement with Viracta dated March 22, 2021
XOMA	XOMA Corporation, a Delaware corporation, including subsidiaries

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, 2023 (unaudited)	December 31, 2022 (Note 1)
ASSETS		
Current assets:		
Cash and cash equivalents	$ 44,300	$ 57,826
Short-term equity securities	311	335
Trade and other receivables, net	6	1
Short-term royalty and commercial payment receivables	—	2,366
Prepaid expenses and other current assets	456	725
Total current assets	45,073	61,253
Property and equipment, net	6	7
Operating lease right-of-use assets	67	29
Long-term royalty and commercial payment receivables	73,333	63,683
Intangible assets, net	14,925	15,150
Other assets - long term	260	260
Total assets	$ 133,664	$ 140,382
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	$ 437	$ 524
Accrued and other liabilities	6,127	2,918
Contingent consideration under RPAs and CPPAs	125	75
Operating lease liabilities	69	34
Unearned revenue recognized under units-of-revenue method	1,968	1,899
Preferred stock dividend accrual	1,368	1,368
Total current liabilities	10,094	6,818
Unearned revenue recognized under units-of-revenue method – long-term	9,044	9,550
Total liabilities	19,138	16,368
Commitments and Contingencies (Note 9)		
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, 2023 and December 31, 2022	49	49
8.375% Series B cumulative, perpetual preferred stock, 1,600 shares issued and outstanding at March 31, 2023 and December 31, 2022	—	—
Convertible preferred stock, 5,003 shares issued and outstanding at March 31, 2023 and December 31, 2022	—	—
Common stock, $0.0075 par value, 277,333,332 shares authorized, 11,460,968 and 11,454,025 shares issued and outstanding at March 31, 2023 and December 31, 2022, respectively	86	86
Additional paid-in capital	1,306,596	1,306,271
Accumulated deficit	(1,192,205)	(1,182,392)
Total stockholders' equity	114,526	124,014
Total liabilities and stockholders' equity	$ 133,664	$ 140,382

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

(Note 1) The condensed consolidated balance sheet as of December 31, 2022, 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, 2022.

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

	Three Months Ended March 31,	
	2023	**2022**
Revenues:		
Revenue from contracts with customers	$ —	$ 2,750
Revenue recognized under units-of-revenue method	437	357
Total revenues	437	3,107
Operating expenses:		
Research and development	54	56
General and administrative	6,196	5,116
Arbitration settlement costs (Note 9)	4,132	—
Amortization of intangible assets	225	—
Total operating expenses	10,607	5,172
Loss from operations	(10,170)	(2,065)
Other income (expense), net:		
Other income (expense), net	357	(215)
Net loss and comprehensive loss	$ (9,813)	$ (2,280)
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	$ (11,181)	$ (3,648)
Basic and diluted net loss per share attributable to common stockholders	$ (0.98)	$ (0.32)
Weighted average shares used in computing basic and diluted net loss per share attributable to common stockholders	11,460	11,330

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, 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

	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, 2021	984	$ 49	2	$ —	5	$ —	11,315	$ 85	$ 1,307,030	$ (1,165,288)	$ 141,876
Exercise of stock options	—	—	—	—	—	—	91	1	632	—	633
Issuance of common stock related to 401(k) contribution	—	—	—	—	—	—	4	—	85	—	85
Stock-based compensation expense	—	—	—	—	—	—	—	—	978	—	978
Preferred stock dividends	—	—	—	—	—	—	—	—	(1,368)	—	(1,368)
Net loss and comprehensive loss	—	—	—	—	—	—	—	—	—	(2,280)	(2,280)
Balance, March 31, 2022	984	$ 49	2	$ —	5	$ —	11,410	$ 86	$ 1,307,357	$ (1,167,568)	$ 139,924

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,	
	2023	2022
Cash flows from operating activities:		
Net loss	$ (9,813)	$ (2,280)
Adjustments to reconcile net loss to net cash used in operating activities:		
Stock-based compensation expense	1,570	978
Common stock contribution to 401(k)	123	85
Amortization of intangible assets	225	—
Depreciation	1	2
Non-cash lease expense	47	42
Change in fair value of equity securities	24	227
Changes in assets and liabilities:		
Trade and other receivables, net	(5)	184
Prepaid expenses and other assets	269	204
Accounts payable and accrued liabilities	3,122	45
Income taxes payable	—	(91)
Operating lease liabilities	(50)	(48)
Unearned revenue recognized under units-of-revenue method	(437)	(357)
Net cash used in operating activities	(4,924)	(1,009)
Cash flows from investing activities:		
Payments of consideration under RPAs and CPPAs	(9,600)	(5,000)
Receipts under RPAs and CPPAs	2,366	—
Net cash used in investing activities	(7,234)	(5,000)
Cash flows from financing activities:		
Payment of preferred stock dividends	(1,368)	(1,368)
Proceeds from exercise of options and other share-based compensation	—	1,606
Taxes paid related to net share settlement of equity awards	—	(973)
Net cash used in financing activities	(1,368)	(735)
Net decrease in cash, cash equivalents and restricted cash	(13,526)	(6,744)
Cash, cash equivalents and restricted cash at the beginning of the period	57,826	95,377
Cash, cash equivalents and restricted cash at the end of the period	$ 44,300	$ 88,633
Supplemental Cash Flow Information:		
Cash paid for taxes	$ —	$ 95
Right-of-use assets obtained in exchange for operating lease liabilities	$ 85	$ —
Non-cash investing and financing activities:		
Preferred stock dividend accrual	$ 1,368	$ 1,368
Estimated fair value of contingent consideration under the Aptevo CPPA	$ 50	$ —

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, 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 milestones and royalties that the Company has made since the 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 primarily in Phase 1 and 2 with significant commercial sales potential that are licensed to large-cap partners. The Company expects that most of its future revenue will be based on payments the Company may receive for milestones and royalties related to 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, 2023, the Company had cash and cash equivalents of $44.3 million.

Based on the Company's current cash balance and its ability to control discretionary 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 GAAP in the United States for interim financial information and with the instructions to Form 10-Q and Article 10 of Regulation S-X. As permitted under those rules certain footnotes or other financial information can be condensed or omitted. These 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, 2022, filed with the SEC on March 9, 2023.

These 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.

Use of Estimates

The preparation of financial statements in conformity with GAAP in the United States requires management to make estimates and assumptions that affect the reported amounts of assets, liabilities, revenue and expenses, and related disclosures. On an ongoing basis, management 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, intangible assets, legal contingencies, contingent consideration 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, 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.

Cash and Cash Equivalents

Cash consists of bank deposits held in business checking and interest-bearing deposit accounts. As of March 31, 2023, the Company had a cash balance of $3.7 million and cash equivalent balances of $40.6 million, 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. The Company considers all highly liquid debt instruments with maturities of three months or less at the time the Company acquires them and that can be liquidated without prior notice or penalty to be cash equivalents. As of December 31, 2022, the Company had a cash balance of $27.5 million and cash equivalent balances of $30.3 million.

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, insurance, collaboration arrangements 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 and determines those that are performance obligations and assesses whether each promised good or service is distinct. The Company then recognizes as revenue the amount of the transaction price that is allocated to the respective performance obligation 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 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 United States 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.

Equity Securities

The Company entered into a license agreement with Rezolute in December 2017, in which it received shares of common stock from Rezolute (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 (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 subject to remeasurement to fair value each reporting period. Any changes in the estimated fair value are recorded in the condensed consolidated statement 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.

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. These developmental pipeline products are non-commercialized, non-approved products that require FDA or other regulatory approval, and thus have uncertain cash flows. The 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 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 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 impairment. The impairment 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 (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 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 statement 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 statement of cash flows.

Intangible Assets

The identifiable intangible asset consists of IP acquired in the ObsEva IP Acquisition Agreement in 2022. This intangible asset is amortized on a straight-line basis over its estimated useful life of 17 years. The straight-line method of amortization represents the Company's best estimate of the distribution of the economic value of the identifiable intangible asset. The intangible asset is carried at cost less accumulated amortization. Amortization will be included in amortization of intangible assets in the condensed consolidated statement of operations and comprehensive loss.

Intangible assets are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Recoverability is measured by comparison of the carrying amount of an asset group to the future net undiscounted cash flows that the assets are expected to generate. If the carrying amount of an asset group exceeds its estimated future cash flows, an impairment charge is recognized in the amount by which the carrying amount of the asset group exceeds the fair value of the asset group.

Leases

The Company leases its headquarters office space 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 built its incremental borrowing rate starting with the interest rate on its fully collateralized debt and then adjusted it for lease term length.

Rent expense for the operating lease is recognized on a straight-line basis, over the reasonably assured lease term based on the 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 is recognized in rent expense when incurred.

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 will 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 stocks 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.

Concentration of Risk

Cash, cash equivalents 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.

SVB was closed on March 10, 2023 by the California Department of Financial Protection and Innovation, which appointed the FDIC as receiver. At the time of closing, the Company maintained approximately $4.5 million of its cash and cash equivalents in accounts with SVB. On March 12, 2023, the U.S. Treasury, Federal Reserve, and FDIC announced that depositors would have access to all of their money starting March 13, 2023. The Company had full access to the $3.7 million cash and cash equivalents held at SVB as of March 31, 2023.

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, 2023, one

partner represented 100% of total revenues. For the three months ended March 31, 2022, three partners represented 64%, 24% and 11% of total revenues, respectively. There was no trade receivables, net balance as of March 31, 2023 and December 31, 2022.

Comprehensive Loss

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

Accounting Pronouncements Recently Adopted

In June 2016, the FASB issued ASU 2016-13, Financial Instruments-Credit Losses (ASC 326): Measurement of Credit Losses on Financial Instruments. ASU 2016-13 replaced the incurred loss impairment methodology under current GAAP with a methodology that reflects expected credit losses and requires consideration of a broader range of reasonable and supportable information to inform credit loss estimates. ASU 2016-13 requires use of a forward-looking expected credit loss model for accounts receivables, loans, and other financial instruments. Adoption of the standard requires using a modified retrospective approach through a cumulative-effect adjustment to retained earnings as of the effective date to align existing credit loss methodology with the new standard. ASU 2016-13 will be effective for smaller reporting companies for fiscal years beginning after December 15, 2022, including interim periods within those fiscal years, using a modified retrospective approach. The Company adopted ASU 2016-13 and related updates on January 1, 2023. The adoption of ASU 2016-13 had no impact on the condensed consolidated financial statements.

In October 2021, the FASB issued ASU 2021-08, Business Combinations – Accounting for Contract Assets and Contact Liabilities from Contracts with Customers. The guidance is intended to improve the accounting for acquired revenue contracts with customers in a business combination by addressing diversity in practice. The guidance requires an acquirer to recognize and measure contract assets and liabilities acquired in a business combination in accordance with ASC 606 as if they had originated the contracts, as opposed to at fair value on the acquisition date. The standard will be effective for business combinations that occur after January 1, 2023. The Company adopted ASU 2021-08 and related updates on January 1, 2023. The adoption of ASU 2021-08 had no impact on the condensed consolidated financial statements.

3. Condensed Consolidated Financial Statements Details

Equity Securities

Equity securities consisted of an investment in Rezolute's common stock of $0.3 million for both March 31, 2023 and December 31, 2022 (Note 4). For the three months ended March 31, 2023 and 2022, the Company recognized a loss of $24,000 and $0.2 million, 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 the condensed consolidated statements of operations and comprehensive loss.

Intangible assets, net

The following table summarizes cost, accumulated amortization, and net carrying value of the intangible assets as of March 31, 2023 (in thousands):

	Cost	Accumulated Amortization	Net Carrying Value
As of March 31, 2023			
Ebopiprant IP (Note 4)	$ 15,247	$ 322	$ 14,925
Total intangible assets	$ 15,247	$ 322	$ 14,925

The following table summarizes cost, accumulated amortization, and net carrying value of the intangible assets as of December 31, 2022 (in thousands):

	Cost	Accumulated Amortization	Net Carrying Value
As of December 31, 2022			
Ebopiprant IP (Note 4)	$ 15,247	$ 97	$ 15,150
Total intangible assets	$ 15,247	$ 97	$ 15,150

The remaining life of the intangible assets is 16.7 years. The following table presents the projected amortization expense for the next five years (in thousands):

	Intangible Asset Amortization
2023 (excluding three months ended March 31, 2023)	$ 673
2024	897
2025	897
2026	897
2027	897
Total	$ 4,261

Accrued and Other Liabilities

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

	March 31, 2023	December 31, 2022
Arbitration settlement costs (Note 9)	4,132	—
Accrued payroll, severance and retention costs	1,087	1,449
Accrued legal and accounting fees	504	867
Accrued incentive compensation	304	562
Other accrued liabilities	100	40
Total	$ 6,127	$ 2,918

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,	
	2023	2022
Numerator		
Net loss	$ (9,813)	$ (2,280)
Less: Series A accumulated dividends	(530)	(530)
Less: Series B accumulated dividends	(838)	(838)
Net loss attributable to common stockholders, basic and diluted	$ (11,181)	(3,648)
Denominator		
Weighted average shares used in computing basic and diluted net loss per share attributable to common stockholders	11,460	11,330
Basic and diluted net loss per share attributable to common stockholders	$ (0.98)	$ (0.32)

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,	
	2023	2022
Convertible preferred stock	5,003	5,003
Common stock options	1,548	697
Warrants for common stock	6	6
Total	6,557	5,706

4. Licensing and Other Arrangements

ObsEva

On November 21, 2022, the Company entered into the ObsEva IP Acquisition Agreement pursuant to which the Company acquired all of ObsEva's intellectual property (patents and know-how) and license agreement rights related to ebopiprant, an investigational compound previously licensed by ObsEva from Merck KGaA. The Company also assumed ObsEva's ongoing rights and obligations under the Organon License Agreement and the Merck KGaA License Agreement. Pursuant to the Organon License Agreement, XOMA is eligible to receive up to $475.0 million in payments for ebopiprant development, commercialization and sales-based milestones. If ebopiprant is successfully commercialized, the Company will be entitled to receive royalties that range from low to mid-teens from Organon and will be required to make mid-single-digit royalty payments to Merck KGaA. The Company paid ObsEva a $15.0 million upfront payment at closing and will pay potential earn-out payments of up to $97.5 million for development, regulatory and sales-based milestones, representing a portion of what the Company will receive pursuant to the Organon License Agreement.

The transaction was treated as an acquisition of a finite-lived intangible asset (Note 2). As such, the Company's cost to acquire said intangible asset of $15.2 million, consisting of $15.0 million cash paid upon closing of the ObsEva IP Acquisition Agreement and direct incremental transaction costs of $0.2 million, was recognized as a long-term asset in the consolidated balance sheet for the year ended December 31, 2022. The estimated useful life of the intangible asset at acquisition represented 17 years. No impairment indicators were identified, and no impairment was recorded as of March 31, 2023 and December 31, 2022. The Company recognized $0.2 million of amortization expense in the condensed consolidated statement of operations and comprehensive loss for the three months ended March 31, 2023.

The Company concluded that the development and regulatory milestone payments of $46.5 million, sales-based milestones payments of $51.0 million and royalty payments to Merck KGaA do not meet the definition of a derivative under ASC 815 and a liability will be recognized at the time that the underlying revenue is recognized under the Organon License Agreement for the corresponding development and regulatory milestone payments, sales-based milestone payments, and royalty payments. ASC 450 may require recognition of the contingent consideration if it is probable that a liability has been incurred and the amount of that liability can be reasonably estimated. Due to the nature of the non-sales and sales-based milestones the Company expects the contingent payments to be probable of payment at the same time that revenue from the Organon License Agreement would be recorded.

As of March 31, 2023 and December 31, 2022, there were no contract assets or contract liabilities related to this arrangement. The Company did not recognize any revenue related to this arrangement during the three months ended March 31, 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 on one hundred eighty 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 October 2020, the Company earned a $25.0 million milestone upon the dosing of the first patient in Novartis' first NIS793 Phase 2 clinical trial. As specified under the terms of the Anti-TGFβ Antibody License Agreement, the Company received $17.7 million in cash, and the remaining balance of $7.3 million was recognized as a reduction to the Company's debt obligation to Novartis.

In October 2021, the Company earned a $35.0 million milestone payment upon dosing of the first patient in Novartis' first NIS793 Phase 3 clinical trial.

The Company is eligible to receive remaining milestones up to a total of $410.0 million under the Anti-TGFβ Antibody License Agreement.

As of March 31, 2023 and December 31, 2022, 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, 2023 and 2022.

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, 2023 and December 31, 2022, 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, 2023 and 2022.

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 additional milestone payments aggregating up to $19.0 million relating to TAK-079 (mezagitamab) and TAK-169 (MT-0169), and low single-digit royalties on future sales of all products subject to this license. The Company's right to 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 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 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 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 November 2020, the first patient was dosed in Takeda's Phase 2 study of mezagitamab and the Company earned a $2.0 million milestone payment from Takeda.

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.

No revenue was recognized for the three months ended March 31, 2023. In January 2022, the Company earned a development milestone pursuant to the Takeda Collaboration and recognized $0.8 million as revenue from contracts with customers in the condensed consolidated statement of operations and comprehensive loss for the three months ended March 31, 2022.

As of March 31, 2023 and December 31, 2022 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 is eligible to receive remaining milestones up to a total of $16.0 million under the Takeda Collaboration Agreement.

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 X358 (now "RZ358") products for all indications. The Company and Rezolute also entered into a common stock purchase agreement 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 related to its future 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 $232.0 million in the aggregate 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 longer of the date of expiration of the last valid patent claim covering the product in that country, or twelve years from the date of the first commercial sale of the product in that country. Rezolute's future royalty obligations in the United States will be reduced by 20% if the manufacture, use or sale of a licensed product is not covered by a valid XOMA patent claim, until such a claim is issued.

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 2 clinical testing. Rezolute's obligation to pay royalties with respect to a particular Rezolute product and country will continue for the longer of twelve years from the date of the first commercial sale of the product in that country or for so long as Rezolute or its licensee is selling such product in such 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 such 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 Rezolute's 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 financing 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.

The Company recognized no revenue and $2.0 million as revenue from contracts with customers in the condensed consolidated statement of operations and comprehensive loss for the three months ended March 31, 2023 and 2022, respectively.

As of March 31, 2023 and December 31, 2022 there were no contract assets or contract liabilities related to this arrangement. None of the costs to obtain or fulfill the contract were capitalized.

Janssen Biotech

The Company and Janssen were parties to a license agreement which was terminated in 2017. In August 2019, the Company and Janssen entered into a new agreement pursuant to which the Company granted a non-exclusive license to Janssen to develop and commercialize certain drug candidates under the XOMA patents and know-how. Under the new agreement, Janssen made a one-time payment of $2.5 million to XOMA. Additionally, for each drug 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 events. Additional milestones may be due for drug 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 new agreement will remain in effect unless terminated by mutual written agreement of the parties.

The Company concluded that the new 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.

In May 2021, the Company earned a $0.5 million milestone from Janssen, upon dosing of the first patient in a Phase 3 clinical trial evaluating one of Janssen's biologic assets. In December 2021, the Company earned a $0.2 million milestone pursuant to its agreement with Janssen.

As of March 31, 2023 and December 31, 2022, 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, 2023 and 2022.

Affimed

In April 2021, the Company and Affimed entered into a contractual agreement, under which the Company is eligible to receive payments from Affimed on potential future commercial sales related to three ICE molecules and preloaded natural killer cells containing the ICE molecules. Additionally, the Company is eligible to receive a milestone upon the first product candidate in each program achieving marketing approval.

The Company concluded that the commercial milestone payments are solely dependent on Affimed's 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 commercial 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 approvals occur 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, 2023 and December 31, 2022, 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, 2023 and 2022.

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 Acquisition 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 the "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 Acquisition 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 $0.4 million as revenue under the units-of-revenue method under these arrangements during each of the three-month periods ended March 31, 2023 and 2022. As of December 31, 2022, the current and non-current portion of the remaining unearned revenue recognized under the units-of-revenue method was $1.9 million and $9.6 million, respectively. As of March 31, 2023, the Company classified $2.0 million and $9.1 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 was $0 and $2.4 million as of March 31, 2023 and December 31, 2022, respectively. Long-term royalty and commercial payment receivables was $73.3 million and $63.7 million as of March 31, 2023 and December 31, 2022, respectively.

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.

Upon closing of the Aptevo CPPA, the Company paid Aptevo $9.6 million in cash, and if XOMA receives more than $0.5 million of commercial payments attributable to net sales of IXINITY that occur during the first quarter of 2023, XOMA will make a one-time payment of $50,000 to Aptevo.

At the inception of the Aptevo CPPA, the Company recorded $9.7 million as long-term royalty receivables which includes the $9.6 million upfront payment and $50,000 one-time payment in its condensed consolidated balance sheet. The Company concluded the one-time payment of $50,000 was probable and reasonably estimable. Therefore, the payment was recorded as contingent liabilities under ASC 450 in its condensed consolidated balance sheet (the "Aptevo Contingent Consideration").

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

Based upon limited available information, the Company is unable to reasonably estimate its commercial payment stream from sales of future net sales and the commercial payments to be received during the twelve-month period following the balance sheet date of March 31, 2023 and, as such, no amounts are reflected 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, 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 milestones 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 percentage 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 currently in clinical development, 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 $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 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 received was recorded as a direct reduction of the recorded long-term royalty receivable balance.

The Company continues to assess that no further payments are probable to be received under this agreement 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, 2023 or December 31, 2022.

Bioasis Royalty Purchase Agreement

On February 25, 2019, the Company entered into the Bioasis RPA, pursuant to which the Company acquired potential future milestone and royalty rights from Bioasis for product candidates that are being developed pursuant to a license agreement between Bioasis and Prothena Biosciences Limited. In addition, the Company was granted options to purchase a 1% royalty right on the next two license agreements entered into between Bioasis and third-party licensees subject to certain payments and conditions as well as a right of first negotiation on the purchase of royalty rights on subsequent Bioasis license agreements with third parties. Upon exercise of the option related to the second license agreement executed by Bioasis, the Company may be obligated to pay up to $0.3 million per licensed product. Upon exercise of the option related to the third license agreement executed by Bioasis, the Company may be obligated to pay up to $0.4 million per licensed product.

Under the terms of the Bioasis RPA, the Company paid $0.3 million and will make contingent future cash payments of up to $0.2 million to Bioasis as the licensed product candidates reach certain development milestones (the "Bioasis Contingent Consideration").

At the inception of the agreement, the Company recorded $0.4 million as long-term royalty receivables in its consolidated balance sheet, including the estimated fair value of the Bioasis Contingent Consideration of $75,000. Future changes in the estimated fair value of the contingent consideration will be recognized in the other income (expense), net line item of the condensed consolidated statement of operations and comprehensive loss. As of March 31, 2023, there was no change in the fair value of the contingent consideration from its initial value and no amounts were paid during the three months ended March 31, 2023. The Company continues to assess that no payments are probable to be received under this agreement 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, 2023 or December 31, 2022.

On November 2, 2020, the Company entered into the Second Bioasis RPA, pursuant to which the Company acquired potential future milestone and other payments, and royalty rights from Bioasis for product candidates that are being developed pursuant to a research collaboration and license agreement between Bioasis and Chiesi. The Company paid Bioasis $1.2 million upon closing of the Second Bioasis RPA for the purchased rights.

At the inception of the Second Bioasis RPA, the Company recorded $1.2 million as long-term royalty receivables in its consolidated balance sheet. The Company continues to assess that no payments are probable to be received under the Second Bioasis RPA in the near term. Under the cost recovery method, the Company does not expect to recognize any income related to milestones 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, 2023 or December 31, 2022.

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 drug 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 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 economics 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 $250.0 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. The Company continues to assess that no payments are probable to be received under this agreement 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, 2023 or December 31, 2022.

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 drug 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. Novartis is a development partner on NIR178, one of the Palo Licensed Products, and NIR178 is being developed pursuant to a license agreement between Palo and Novartis.

Under the terms of the Palo RPA, the Company paid Palo a $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. The Company continues to assess that no payments are probable to be received under this agreement 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, 2023 or December 31, 2022.

Viracta Royalty Purchase Agreement

On March 22, 2021, the Company entered into the Viracta RPA, pursuant to which the Company acquired the right to receive future royalties, milestones, and other payments related to two clinical-stage drug candidates for $13.5 million. The first candidate, DAY101 (pan-RAF kinase inhibitor), is being developed by Day One Biopharmaceuticals, and the second candidate, vosaroxin (topoisomerase II inhibitor), is being developed by Denovo Biopharma. The Company acquired the right to receive (i) up to $54.0 million in potential milestones, potential royalties on sales, if approved, and other payments related to DAY101, excluding up to $20.0 million consideration 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. No payments are probable to be received under the Viracta RPA in the near term. Under the cost recovery method, the Company does not expect to recognize any income related to royalties, milestones 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, 2023 or December 31, 2022.

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 milestones.

At the inception of the Kuros RPA, the Company recorded $7.0 million as long-term royalty receivables in its consolidated balance sheet. Under the cost recovery method, the Company does not expect to recognize any income related to royalties, milestones and other payments until the purchase price has been fully collected.

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, 2023, no payments are probable to be received under the Kuros RPA in the near term.

The Company performed its impairment assessment and no allowance for credit losses was recorded as of March 31, 2023 or December 31, 2022.

Commercial Payment Purchase Agreement with Affitech

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 milestones 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 $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 tied to the U.S. marketing approvals and a $3.0 million milestone tied to the EC approvals. The Company may pay an additional $12.0 million based on the achievement of certain sales milestones.

In August 2022, the Company received $0.5 million from Roche representing the first commercial payment for sales of VABYSMO during the first six months of 2022. In accordance with the cost recovery method, the $0.5 million received was recorded as a direct reduction of the long-term royalty receivable balance.

In February 2023, the Company received $2.4 million, representing its commercial payment stream from sales of VABYSMO during the last six months of 2022. The payment amount was classified as a short-term royalty and

commercial payment receivable as of December 31, 2022. In accordance with the cost recovery method, the $2.4 million received in February 2023 was recorded as a direct reduction of the short-term royalty receivable balance as of March 31, 2023.

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 balance sheet date of March 31, 2023 and, as such, no additional amounts are reflected as short-term royalty and commercial payment receivables.

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, 2023 or December 31, 2022.

The following table summarizes the royalty receivable activities during the three months ended March 31, 2023 (in thousands):

	Short-Term	Long-Term
Balance at January 1, 2023	$ 2,366	$ 63,683
Acquisition of royalty and commercial payment rights:		
Aptevo		9,650
Receipt of royalty and commercial payments		
Affitech	(2,366)	—
Balance at March 31, 2023	$ —	$ 73,333

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, 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	$ 40,632	$ —	$ —	$ 40,632
Total cash equivalents	40,632	—	—	40,632
Equity securities	311	—	—	311
Total financial assets	$ 40,943	$ —	$ —	$ 40,943
Liabilities:				
Contingent consideration under RPAs and CPPAs	$ —	$ —	$ 75	$ 75

	Fair Value Measurements at December 31, 2022 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	$ 30,334	$ —	$ —	$ 30,334
Total cash equivalents	30,334	—	—	30,334
Equity securities	335	—	—	335
Total financial assets	$ 30,669	$ —	$ —	$ 30,669
Liabilities:				
Contingent consideration under RPAs and CPPAs	$ —	$ —	$ 75	$ 75

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, 2023 and December 31, 2022. 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, 2023 and December 31, 2022, the Company valued the equity securities using the closing price for Rezolute's common stock traded on the Nasdaq Stock Market of $1.92 and $2.07, 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

The estimated fair value of the Bioasis Contingent Consideration liability at the inception of the Bioasis RPA represents the future consideration that is contingent upon the achievement of specified development milestones for a product candidate. The fair value measurement is based on significant Level 3 inputs such as anticipated timelines and probability of achieving development milestones of each licensed product candidate.

Changes in the fair value of the liability for contingent consideration will be recorded in the other income (expense), net line item of the condensed consolidated statements of operations and comprehensive loss until settlement. During the three months ended March 31, 2023, there were no changes in the estimated fair value of the contingent consideration recorded pursuant to the Bioasis RPA from the initial value of $0.1 million.

7. Lease Agreements

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 Company retains no option to further extend, renew or terminate the lease under the amended terms and all other material terms and conditions, including the monthly base rent, will remain 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.

As of March 31, 2023 and December 31, 2022 the total net lease liability was $69,000 and $34,000, respectively.

The following table summarizes the cost components of the Company's operating lease for the three months ended March 31, 2023 and 2022 (in thousands):

	Three Months Ended March 31,	
	2023	2022
Lease costs:		
Operating lease cost	$ 48	$ 44
Variable lease cost [1]	5	3
Total lease costs	$ 53	$ 47

(1) Under the terms of the lease agreement, 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 following information represents supplemental disclosure for the statement of cash flows related to operating leases (in thousands):

	Three Months Ended March 31,	
	2023	2022
Cash paid for amounts included in the measurement of lease liabilities		
Operating cash flows under operating leases	$ 52	$ 50

The present value assumptions used in calculating the present value of the lease payments for the Company's operating lease as of March 31, 2023 and December 31, 2022 were as follows:

	March 31, 2023	December 31, 2022
Weighted-average remaining lease term	0.33 years	0.17 years [1]
Weighted-average discount rate	5.51 %	5.51 %

(1) Prior to the extension of the end of the lease term from February 28, 2023 to July 31, 2023

8. Common Stock Warrants

As of March 31, 2023 and December 31, 2022, the following common stock warrants were outstanding:

Issuance Date	Expiration Date	Balance Sheet Classification	Exercise Price per Share	March 31, 2023	December 31, 2022
May 2018	May 2028	Stockholders' equity	$ 23.69	6,332	6,332
March 2019	March 2029	Stockholders' equity	$ 14.71	4,845	4,845
				11,177	11,177

9. 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.

Contingent Consideration

Pursuant to the Company's agreements with Bioasis, Aronora, Kuros, Affitech, ObsEva and Aptevo the Company has committed to pay the Bioasis Contingent Consideration, the Aronora Royalty Milestones, the Kuros Sales Milestones, the Affitech Sales Milestones, the ObsEva Sales Milestones, the ObsEva Non-Sales Milestones, the Merck KGaA royalties and the Aptevo Contingent Consideration.

The Company recorded $75,000 for the Bioasis Contingent Consideration that represents the estimated fair value of the potential future payments at the inception of the Bioasis RPA.

The Bioasis Contingent Consideration is remeasured at fair value at each reporting period, with changes in fair value recorded in other income (expense), net. As of March 31, 2023, there has been no change in the estimated fair value of the Bioasis Contingent Consideration from the initial value.

The Company recorded a contingent liability of $50,000 under ASC 450 for the Aptevo Contingent Consideration at the inception of the Aptevo CPPA. As of March 31, 2023, there has been no change in the estimated amount of the Aptevo Contingent Consideration from the recognized amount.

The liability for future Aronora Royalty Milestones, Kuros Sales Milestones, and Affitech Sales Milestones will be recorded when the amounts, by product, are estimable and probable. The liability for future ObsEva Non-Sales Milestones, ObsEva Sales Milestones and Merck KGaA royalties will be recorded at the time that the corresponding underlying revenue under the Organon License Agreement is recognized. As of March 31, 2023, none of these Aronora Royalty Milestones, Kuros Sales Milestones, Affitech Sales Milestones, ObsEva Non-Sales Milestones, ObsEva Sales Milestones, or Merck KGaA royalties were assessed to be probable and as such, no liability was recorded on the condensed consolidated balance sheet.

Arbitration Proceeding

In June 2021, the Company initiated a binding arbitration proceeding with one of its licensees (the "Licensee") at the American Arbitration Association/International Centre for Dispute Resolution, seeking milestone and royalty

payments under its license agreement. A hearing before a panel of arbitrators was held in November 2022, and the parties submitted post-hearing briefs. On March 21, 2023, the Company received an adverse decision in this arbitration proceeding. The panel of arbitrators declined to award the Company damages and ruled that the license agreement has expired. The panel ruled that the Company is responsible for the Licensee's costs as well as arbitrators' and administrative fees previously incurred by the Licensee of $4.1 million.

10. Stock Based Compensation

The Company may grant qualified and non-qualified stock options, common stock 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 offering period.

Stock Options and Other Benefit 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.

Stock Option Inducement Awards

On December 30, 2022, the Board appointed Owen Hughes as Executive Chairman of the Board and Interim CEO (principal 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.

On January 3, 2023, the Company granted Mr. Hughes two separate non-qualified stock options to purchase: (i) 100,000 shares of the Company's common stock at a fair market value exercise price of $18.66 per share that will vest in a series of four equal installments on March 31, 2023, June 30, 2023, September 30, 2023 and December 31, 2023 and (ii) 75,000 shares of the Company's common stock at an above fair market value exercise price of $30.00 per share that will vest in a series of 36 successive equal monthly installments measured from January 1, 2023.

On January 3, 2023, the Company granted Mr. Sitko two separate non-qualified stock options to purchase: (i) 300,000 shares of the Company's common stock at a fair market value exercise price of $18.66 per share and (ii) 250,000 shares of the Company's common stock at an above fair market value exercise price of $30.00 per share. Twenty-five percent of the shares subject to Mr. Sitko's option grants will vest and become exercisable on January 3, 2024, and the balance of the shares will vest and become exercisable in a series of 36 successive equal monthly installments thereafter.

Fair Value Assumptions

The fair value of the stock options granted under the 2010 Plan during the three months ended March 31, 2023 and 2022, was estimated based on the following weighted average assumptions:

	Three Months Ended March 31,	
	2023	2022
Dividend yield	n/a	0 %
Expected volatility	n/a	70 %
Risk-free interest rate	n/a	1.89 %
Expected term	n/a	5.66 years

No stock options were granted under the 2010 Plan during the three months ended March 31, 2023. The weighted-average grant-date fair value per share of the options granted under the 2010 Plan during the three months ended March 31, 2022 was $12.64.

The fair value of the stock options granted to Mr. Hughes and Mr. Sitko at an exercise price of $18.66 per share during the three months ended March 31, 2023, was estimated based on the following weighted average assumptions:

	Three Months Ended March 31,	
	2023	2022[1]
Dividend yield	0 %	n/a
Expected volatility	69 %	n/a
Risk-free interest rate	3.92 %	n/a
Expected term	5.79 years	n/a

(1) No Stock Option Inducement Awards were granted during the three months ended March 31, 2022.

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 three months ended March 31, 2023 was $11.91.

The fair value of the stock options granted to Mr. Hughes and Mr. Sitko at an exercise price of $30.00 per share during the three months ended March 31, 2023 was estimated based on the following weighted average assumptions:

	Three Months Ended March 31,	
	2023	2022[1]
Dividend yield	0 %	n/a
Expected volatility	91 %	n/a
Risk-free interest rate	3.86 %	n/a
Expected term	8.01 years	n/a

(1) No Stock Option Inducement Awards were granted during the three months ended March 31, 2022.

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 three months ended March 31, 2023 was $14.68.

The activity for all stock options for the three months ended March 31, 2023, 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, 2023	2,025,542	$ 20.24	6.10	$ 10,804
Granted	725,000	23.74		
Exercised	—	—		
Forfeited, expired or cancelled	(43,998)	38.68		
Outstanding at March 31, 2023	2,706,544	$ 20.88	6.84	$ 15,134
Exercisable at March 31, 2023	1,773,379	$ 19.37	5.42	$ 13,914

No stock options were exercised during the three months ended March 31, 2023. The aggregate intrinsic value of stock options exercised during the three months ended March 31, 2022 was $2.0 million.

As of March 31, 2023, $11.6 million of total unrecognized compensation expense related to stock options is expected to be recognized over a weighted average period of 2.96 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 issued under the 2010 Plan, the Stock Option Inducement Awards and ESPP in the condensed consolidated statements of operations and comprehensive loss (in thousands):

	Three Months Ended March 31,	
	2023	2022
Total stock-based compensation expense included in G&A	$ 1,570	$ 978

Employee Retention Bonus

In October 2022, the Company approved the Amended Retention Plan which provides that each of its then current employees, excluding the CEO, will be eligible to receive a cash retention bonus if employed through each of two periods: (1) the three-month anniversary of November 1, 2022 (the “Initial Period”) and (2) the nine-month period immediately following the Initial Period. All other terms of the Amended Retention Plan remain consistent with the Retention Plan. The Company is accruing and recognizing the cost of the cash retention bonus as expense on a straight-line basis from November 1, 2022 through October 31, 2023.

The Company paid $0.2 million of cash retention bonuses accrued over the Initial Period in January 2023. Pursuant to the Amended Retention Plan, as of March 31, 2023, the Company expects to pay an additional $0.5 million in cash in 2023 related to the cash retention bonuses. The Company recognized $0.2 million for cash retention bonuses in operating expenses in the condensed consolidated statement of operations and comprehensive loss during the three months ended March 31, 2023 and will recognize the remaining amount of $0.4 million for cash retention bonuses in operating expenses through October 31, 2023. The Company accrued cash retention bonuses in accrued and other liabilities in the condensed consolidated balance sheets were $0.1 million as of March 31, 2023 and December 31, 2022.

James R. Neal Departure and Continuity Incentive

James R. Neal retired as the Company’s CEO effective as of December 31, 2022 (the “Departure Date”) and resigned as a member of the Board and Chairman of the Board, effective as of January 1, 2023. Pursuant to Mr. Neal’s Amended and Restated Employment Agreement, dated December 15, 2021, by and between the Company and Mr. Neal, following the Departure Date, Mr. Neal is entitled to a cash payment of $1.2 million (the “Continuity Incentive”) which

will be made in equal monthly installments starting in January 2023 through December 2023, less deductions and withholdings. The Company accrued the full $1.2 million Continuity Incentive in operating expenses in the consolidated statement of operations and comprehensive loss during the year ended December 31, 2022. The unpaid accrued Continuity Incentive recorded in accrued and other liabilities in the condensed consolidated balance sheets as of March 31, 2023 and December 31, 2022 was $0.9 million and $1.2 million, respectively.

11. Capital Stock

Dividends

During the three months ended March 31, 2023, the Company's Board of Directors 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 26, 2022	$ 0.53906	$ 0.52344	January 17, 2023
February 22, 2023	$ 0.53906	$ 0.52344	April 17, 2023

BVF Ownership

As of March 31, 2023, BVF owned approximately 31.7% of the Company's total outstanding shares of common stock, and if all the Series X convertible preferred shares were converted, BVF would own 52.5% 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, 2023, 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.

12. Income Taxes

No provision was made for federal income tax, since the Company has incurred net operating losses during the three months ended March 31, 2023 and 2022. The Company continues to maintain a full valuation allowance against its remaining net deferred tax assets.

The Company has a total of $5.9 million of gross unrecognized tax benefits, 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, 2023, the Company has not accrued interest or penalties related to uncertain tax positions.

On August 16, 2022, President Biden signed the Inflation Reduction Act of 2022 (the Inflation Act) into law. The Inflation Act contains certain tax measures, including a corporate alternative minimum tax of 15% on some large corporations and an excise tax of 1% on corporate stock buy-backs. The various provisions of the Inflation Act do not have a material impact on the Company’s financial statements.

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

Forward Looking Statements

This Quarterly Report on Form 10-Q contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, or the Securities Act, Section 21E of the Securities Exchange Act of 1934, as amended, or 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 our management's beliefs and assumptions and on information currently available to them. In some cases you can identify forward-looking statements by words such as "may," "will," "should," "could," "would," "expects," "plans," "anticipates," "believes," "estimates," "projects," "predicts," "potential," "intend" and similar expressions intended to identify forward-looking statements. Examples of these statements include, but are not limited to, statements regarding: 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, and the impact of the evolving COVID-19 pandemic. These 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, including those related to current economic and financial market conditions, are contained principally in Part II, Item 1A of this Quarterly Report on Form 10-Q and our other filings with the SEC. You should not place undue reliance on these forward-looking statements, which apply only as of the date of this Quarterly Report on Form 10-Q. You should read this Quarterly Report on Form 10-Q completely and with the understanding that our actual future results may be materially different from those we expect. Except as required by law, we assume no obligation to update these forward-looking statements, whether as a result of new information, future events or otherwise.

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. We do not undertake any obligation to release publicly any revisions to these 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.

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 drug products 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, 2022.

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 and royalties that we have made since the 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 drug 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 expect that most of our future revenue will be based on payments we may receive for milestones and royalties related to these programs.

The generation of future revenues related to licenses, milestones, and royalties is dependent on the achievement of milestones or product sales by our existing licensees. We generated net loss of $17.1 million and negative cash flows from operations of $12.9 million for the year ended December 31, 2022. We generated net loss of $9.8 million and negative cash flows from operations of $4.9 million for the three months ended March 31, 2023, and we had an accumulated deficit of $1.2 billion as of March 31, 2023.

Recent Business Developments

Portfolio Updates – Royalty and Commercial Payment Purchase Agreements

In March 2023, we entered into the Aptevo CPPA, pursuant to which we acquired the full commercial payment stream and a portion of the milestone rights to IXINITY, which is marketed by Medexus for the control and prevention of bleeding episodes and postoperative management in people with Hemophilia B, from Aptevo. In the second quarter of 2023, we will begin receiving a mid-single digit percentage payment stream on all IXINITY sales from January 1, 2023, into the first quarter of 2035, and also will be entitled to milestone payments. Under the terms of the Aptevo CPPA, we paid Aptevo a $9.6 million upfront payment and will pay an additional $50,000 if our receipts for the commercial payment stream of IXINITY during the first quarter of 2023 exceed $0.5 million.

In February 2023, we received $2.4 million, representing our commercial payment stream from sales of VABYSMO during the last six months of 2022 under the Affitech CPPA.

Critical Accounting Estimates

The preparation of financial statements in accordance with generally accepted accounting principles, or 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 evaluate our estimates on an ongoing basis. 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, 2023, as compared with those previously disclosed in our Annual Report on Form 10-K for the year ended December 31, 2022, filed with the SEC on March 9, 2023.

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, 2023 and 2022, were as follows (in thousands):

	Three Months Ended March 31,		
	2023	2022	Change
Revenue from contracts with customers	$ —	$ 2,750	$ (2,750)
Revenue recognized under units-of-revenue method	437	357	80
Total revenues	$ 437	$ 3,107	$ (2,670)

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. The decrease for the three months ended March 31, 2023, as compared to the same period in 2022, was primarily due to $2.0 million in revenue recognized in the first quarter of 2022 related to a milestone event under our Rezolute license agreement and a $0.8 million milestone earned pursuant to the Takeda Collaboration Agreement, while no such revenue was recognized during the three months ended March 31, 2023.

Revenue Recognized under Units-of-Revenue Method

Revenues recognized under the units-of-revenue method include the amortization of unearned revenue from the sale of royalty interests to HCRP in 2016. Revenues for the three months ended March 31, 2023 remained consistent with the same period in 2022 due to comparable sales of products underlying the agreements with HCRP.

R&D Expenses

R&D expenses were $54,000 for the three months ended March 31, 2023, which was consistent with $56,000 for the same period in 2022. We do not expect to incur substantial R&D expenses related to internally developed programs due to the focus on our royalty aggregator business model.

G&A Expenses

G&A expenses include salaries and related personnel costs, professional fees, and facilities costs.

G&A expenses were $6.2 million for the three months ended March 31, 2023, compared with $5.1 million for the same period in 2022. The increase of $1.1 million was primarily due to a $0.6 million increase in stock-based compensation expense and a $0.3 million increase in consulting and legal costs.

Arbitration Settlement Costs

Arbitration settlement costs of $4.1 million accrued during the three months ended March 31, 2023, consisted of the costs incurred related to the arbitration proceeding settlement with one of our licensees.

Other Income (Expense)

Other Income (Expense), Net

The following table shows the activity in other income (expense), net for the three months ended March 31, 2023 and 2022 (in thousands):

	Three Months Ended March 31,		
	2023	2022	Change
Other income (expense), net			
Investment income	$ 381	$ 15	$ 366
Change in fair value of equity securities	(24)	(226)	202
Other	—	(4)	4
Total other income (expense), net	$ 357	$ (215)	$ 572

The change in fair value of equity securities is due to the change in market price of equity securities we own in shares of Rezolute's common stock. Investment income increased $0.4 million in the three months ended March 31, 2023, compared with the same period in 2022 due to higher market interest rates.

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, 2023 and 2022. 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 unrestricted 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, 2023	December 31, 2022	Change
Cash and cash equivalents	$ 44,300	$ 57,826	$ (13,526)
Working capital	$ 34,979	$ 54,435	$ (19,456)

	Three Months Ended March 31,		
	2023	2022	Change
Net cash used in operating activities	$ (4,924)	$ (1,009)	$ (3,915)
Net cash used in investing activities	(7,234)	(5,000)	(2,234)
Net cash used in financing activities	(1,368)	(735)	(633)
Net decrease in cash, cash equivalents and restricted cash	$ (13,526)	$ (6,744)	$ (6,782)

Net cash used in operating activities for the three months ended March 31, 2023, was $4.9 million due to our operating expenses of $10.6 million, excluding non-cash expenses of $2.0 million including stock-based compensation of $1.6 million, and further offset by a $2.9 million change in assets and liabilities. Net cash used in operating activities for the three months ended March 31, 2022 was due to our operating expenses of $5.2 million, excluding non-cash expenses including stock-based compensation of $1.0 million, partially offset by a $2.0 million milestone payment received from Rezolute and a $0.8 million milestone payment received from Takeda.

Net cash used in investing activities for the three months ended March 31, 2023, was $7.2 million due to the $9.6 million payment to Aptevo for the acquisition of payment rights pursuant to the Aptevo CPPA in March 2023, partially offset by the $2.4 million commercial payment from sales of VABYSMO. Net cash used in investing activities for the three months ended March 31, 2022 of $5.0 million was due to the $5.0 million milestone payment pursuant to the Affitech CPPA in January 2022.

Net cash used in financing activities for the three months ended March 31, 2023, of $1.4 million was due to the payment of dividends on our Series A and Series B Preferred Stock. Net cash used in financing activities for the three months ended March 31, 2022 of $0.7 million was primarily due to the payment of dividends on our Series A and Series B Preferred Stock of $1.4 million, partially offset by the receipt of net cash provided from the exercise of stock options after related tax payments.

Capital Resources

We have incurred significant operating losses since our inception and as of March 31, 2023, we had an accumulated deficit of $1.2 billion. As of March 31, 2023, we had $44.3 million in cash and cash equivalents. Based on our current cash balance and our ability to control discretionary spending, such as royalty acquisitions, we have evaluated and concluded our financial condition is 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.

SVB was closed on March 10, 2023, by the California Department of Financial Protection and Innovation, which appointed the FDIC as receiver. At the time of closing, we maintained approximately $4.5 million of our cash and cash equivalents in accounts with SVB. On March 12, 2023, the U.S. Treasury, Federal Reserve, and FDIC announced that depositors would have access to all of their money starting March 13, 2023. We had full access to the $3.7 million cash and cash equivalents held at SVB as of March 31, 2023.

We have primarily financed our operations and acquisitions through the issuance of our common stock, Series A and Series B Preferred Stock, and amounts received as milestone payments under our license agreements. The generation of future revenues related to licenses, milestones, 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 milestones in future periods. We may seek additional capital through the use of our 2018 Common Stock ATM Agreement or 2021 Series B Preferred Stock ATM Agreement (see Note 11 of 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 the uncertainty that we would be able to raise such additional capital at a price or on terms that are favorable to us. 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 expenditures:

Operating expenditures: Our primary uses of cash and operating expenses relate to employee and related costs, consultants to support our administrative and business development efforts, legal and accounting services, insurance, investor relations and IT services. Our planned spending includes costs to satisfy the Continuity Incentive related to the departure of Mr. Neal as CEO in December 2022, increased personnel-related costs associated with the appointment of

our new Executive Chairman and Chief Investment Officer, and payments of our employee retention bonuses. In addition, in March 2023, we received an adverse decision in an arbitration proceeding in which the arbitrators ruled we are responsible for the costs incurred by the counter-party. We paid these costs of $4.1 million in April 2023.

To support our royalty aggregator business model, we engage third parties to assist in our evaluation of potential acquisitions of milestone and royalty streams. Additional operating expenses, including consulting and legal costs, may increase in 2023 in response to an anticipated increase in the volume of acquisition targets evaluated or completed.

Our amended headquarters lease expires in July 2023, and we are currently evaluating our office space needs, however, due to our small staff and minimal operating space requirements, we do not expect to incur material incremental costs associated with our current or future building leases.

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

We have potential contingent consideration of $0.1 million recorded on our consolidated balance sheets as of March 31, 2023, for milestone and one-time payments due under our agreements with Bioasis and Aptevo. We have evaluated and concluded our existing capital resources are adequate to meet those needs.

We also have potential sales-based milestones that may become due under our agreements with Aronora, Kuros and Affitech as well as non-sales-based milestones, sales-based milestones and sales-based royalty payments that may become due under our agreement with ObsEva. 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 will be fully funded by the related royalty or commercial payment receipts.

Collaborative Agreements, Royalties and Milestone Payments: We have 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 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, 2023. 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. All payments due will be funded by a portion of the related milestone or royalty revenue we receive or will be reimbursed by our licensees.

Dividends: Holders of our Series A Preferred Stock are entitled to receive, when and as declared by our Board of Directors, 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 of Directors, 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, 2022, as filed with the SEC. Except as described below, there have been no material changes from the commitment and contingencies previously disclosed in our Annual Report on Form 10-K for the year ended December 31, 2022.

In June 2021, we initiated a binding arbitration proceeding with one of our licensees (the "Licensee") at the American Arbitration Association/International Centre for Dispute Resolution, seeking milestone and royalty payments under our license agreement. A hearing before a panel of arbitrators was held in November 2022, and the parties submitted post-hearing briefs. On March 21, 2023, we received an adverse decision in this arbitration proceeding. The panel of arbitrators declined to award us damages and ruled that the license agreement has expired. The panel ruled that we are responsible for the Licensee's costs as well as arbitrators' and administrative fees previously incurred by the Licensee of $4.1 million.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

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

ITEM 4. CONTROLS AND PROCEDURES

Evaluation of Controls and Procedures

We have established disclosure controls and procedures, as defined in Rule 13a-15(e) and 15d-15(e) of the Exchange Act. Our Interim Chief Executive Officer (Principal Executive Officer) and our Chief Financial Officer have concluded, based on the evaluation of the effectiveness of our disclosure controls and procedures by our management, with the participation of our Interim Chief Executive Officer (Principal Executive Officer) and our Chief Financial Officer, as of the end of the period covered by this report, that our disclosure controls and procedures were effective at the reasonable assurance level.

Changes in Internal Control

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

PART II – OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS

In June 2021, we initiated a binding arbitration proceeding with one of our licensees (the "Licensee") at the American Arbitration Association/International Centre for Dispute Resolution, seeking milestone and royalty payments under our license agreement. A hearing before a panel of arbitrators was held in November 2022, and the parties submitted post-hearing briefs. On March 21, 2023, we received an adverse decision in this arbitration proceeding. The panel of arbitrators declined to award us damages and ruled that the license agreement has expired. The panel ruled that we are responsible for the Licensee's costs as well as arbitrators' and administrative fees previously incurred by the Licensee of $4.1 million.

ITEM 1A. RISK FACTORS

This Quarterly Report on Form 10-Q contains forward-looking information based on our current expectations. Because our actual results may differ materially from any forward-looking statements made by or on behalf of us, this section includes a discussion of important factors that could affect our actual future results, including our revenues, expenses, operating results, cash flows and net loss per share. Additional risks and uncertainties not presently known to us or that we currently deem immaterial may also impair our business operations. You should carefully consider these risk factors, together with all of the other information included in this Quarterly Report on Form 10-Q as well as our other publicly available filings with the U.S. Securities and Exchange Commission, or SEC.

We have marked with an asterisk (*) those risks described below that reflect substantive changes from, or additions to, the risks described in our Annual Report on Form 10-K for the year ended December 31, 2022.

Risk Factors Summary

Below is a summary of material factors that make an investment in our securities speculative or risky. Importantly, this summary does not address all of the risks and uncertainties that we face. Additional discussion of the risks and uncertainties summarized in this risk factor summary, as well as other risks and uncertainties that we face, can be found under "Risk Factors" below. The below summary is qualified in its entirety by that more complete discussion of such risks and uncertainties. You should consider carefully the risks and uncertainties described under "Risk Factors" below as part of your evaluation of the risks associated with an investment in our securities.

- Our acquisitions of potential future royalty and/or milestone payments may not produce anticipated revenues and/or may be negatively affected by a default or bankruptcy of the licensor(s) or licensee(s), and if such transactions are secured by collateral, we may be, or may become, under-secured by the collateral or such collateral may lose value and we will not be able to recuperate our capital expenditures associated with the acquisition.

- Many of our potential royalty acquisitions may be associated with drug products that are in clinical development and have not yet been commercialized. To the extent that such products are not successfully developed and commercialized, our financial condition and results of operations may be negatively impacted. Acquisitions of potential royalties associated with development stage biopharmaceutical product candidates are subject to a number of uncertainties.

- We depend on our licensees and royalty-agreement counterparties for the determination of royalty and milestone payments. While we typically have primary or back-up rights to audit our licensees and royalty-agreement counterparties, the independent auditors may have difficulty determining the correct royalty calculation, errors, may be undetectable and payment calculations may call for retroactive adjustments. We may have to exercise legal remedies to resolve any disputes resulting from any such audit.

- The lack of liquidity of our acquisitions of future potential milestones and royalties may adversely affect our business and, if we need to sell any of our acquired assets, we may not be able to do so at a favorable price, if at all. As a result, we may suffer losses. We have sustained losses in the past, and we expect to sustain losses in the foreseeable future.

- The ongoing COVID-19 pandemic, macroeconomic conditions, such as rising inflation rates, uncertain credit and global financial markets and supply chain disruptions, and geopolitical events, have adversely impacted and could materially and adversely impact the future our licensees or royalty-agreement counterparties or their licensees, which could cause delays or elimination of our receipts of potential milestones and royalties under our licensing or royalty and milestone acquisition arrangements.

- Our royalty aggregator strategy may require that we register with the SEC as an "investment company" in accordance with the Investment Company Act of 1940. If we were to become an "investment company" and be subject to the restrictions of the 1940 Act, those restrictions would likely require significant changes in the way we do business and add significant administrative burdens to our operations.

- Our royalty aggregator strategy may require us to raise additional funds to acquire milestone and royalty interests; we cannot be certain that funds will be available or available at an acceptable cost of capital, and if they are not available, we may be unsuccessful in acquiring milestone and royalty interests to sustain the business in the future.

- Information available to us about the biopharmaceutical products underlying the potential royalties we buy may be limited and therefore our ability to analyze each product and its potential future cash flow may be similarly limited.

- Our future income is dependent upon numerous potential milestone and royalty-specific assumptions and, if these assumptions prove not to be accurate, we may not achieve our anticipated rates of returns. Reductions in potential milestone or royalty payments compared to expectations, or impairments in the value of potential milestones and royalties acquired could have a material adverse effect on our financial condition and results of operations.

- A large percentage of the calculated net present value of our portfolio is represented by a limited number of products. The failure of any one of these products to move forward in clinical development or commercialization may have a material adverse effect on our financial condition and results of operation.

- We rely heavily on license and collaboration relationships, and any litigation, arbitration or other disputes with our licensees, collaborators and their partners or termination or breach of any of the related agreements could reduce the financial resources available to us. In the event of any disagreement that cannot be resolved satisfactorily to us, we may end up being paid less than anticipated on such product or involved in costly and time-consuming arbitration or litigation, which could materially adversely affect our financial condition, results of operation and future prospects.

- 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 adversely affect our potential milestone and royalty providers' product candidate development.

- We may not be able to successfully identify and acquire potential milestone and royalty streams on other products, product candidates, or programs, or other companies to grow and diversify our business, and, even if we are able to do so, we may not be able to successfully manage the risks associated with integrating any such products, product candidates, programs or companies into our business or we may otherwise fail to realize the anticipated benefits of these acquisitions.

- Our potential milestone and royalty providers face uncertain results of clinical trials of product candidates. If our potential royalty providers' therapeutic product candidates do not receive regulatory approval, our potential royalty providers will be unable to market them.

- We do not know whether there will be, or will continue to be, a viable market for the product candidates in which we have an ownership, milestone or royalty interest.

- If we and our potential royalty providers are unable to protect our intellectual property, in particular patent protection for principal products, product candidates and processes in which we have an ownership or royalty interest, and prevent the use of the covered subject matter by third parties, our potential royalty providers' ability to compete in the market will be harmed, and we may not realize our profit potential.

- We have a continuing obligation to pay quarterly dividends to holders of our Series A and Series B Preferred Stock, which will be an on-going expenditure for us and may limit our ability to borrow additional funds.

Risks Related to our Royalty Aggregator Strategy

Our acquisitions of potential future royalty and/or milestone payments may not produce anticipated revenues and/or may be negatively affected by a default or bankruptcy of the licensor(s) or licensee(s) under the applicable license agreement(s) covering such potential royalties and/or milestones, and if such transactions are secured by collateral, we may be, or may become, under-secured by the collateral or such collateral may lose value and we will not be able to recuperate our capital expenditures associated with the acquisition.

We are engaged in a continual review of opportunities to acquire future royalties, milestones and other payments related to drug development and sales as part of our royalty aggregator strategy or to acquire companies that hold royalty

assets. Generally, at any time, we seek to have acquisition opportunities in various stages of active review, including, for example, our engagement of consultants and advisors to analyze particular opportunities, technical, financial and other confidential information, submission of indications of interest and involvement as a bidder in competitive auctions. Many potential acquisition targets do not meet our criteria, and for those that do, we may face significant competition for these acquisitions from other royalty buyers and enterprises. Competition for future asset acquisition opportunities in our markets could increase the price we pay for such assets and could reduce the number of potential acquisition targets. The success of our acquisitions is based on our ability to make accurate assumptions regarding the valuation, probability, timing and amount of potential future royalty and milestone payments as well as the viability of the underlying technology and intellectual property. The failure of any of these acquisitions to produce anticipated revenues may materially and adversely affect our financial condition and results of operations.

Some of these acquisitions may expose us to credit risk in the event of a default by or bankruptcy of the licensor(s) or licensee(s) that are parties to the applicable license agreement(s) covering the potential milestone and royalty streams being acquired. In addition, recent volatility in the capital markets may limit our licensees or royalty-agreement counterparties' ability to access additional funding. While we generally try to structure our receipt of potential milestone and royalty payments to minimize the risk associated with such a default or bankruptcy, there can be no assurance that any such default or bankruptcy will not adversely affect our ability to receive future potential royalty and/or milestone payments. To mitigate this risk, on occasion, we may obtain a security interest as collateral in such royalty, milestone and other payments. Our credit risk in respect of such counterparty may be exacerbated when the collateral held by us cannot be realized upon or is liquidated at prices not sufficient to recover the full amount we are due pursuant to the terms of the agreements covering the particular assets. This could occur in circumstances where the original collateral was not sufficient to cover a complete loss (e.g., our interests were only partially secured) or may result from the deterioration in value of the collateral, so that, in either such case, we are unable to recuperate our full capital outlay. Any such losses resulting therefrom could materially and adversely affect our financial condition and results of operations.

Many of our potential royalty acquisitions may be associated with drug products that are in clinical development and have not yet been commercialized. To the extent that such products are not successfully developed and commercialized, our financial condition and results of operations may be negatively impacted. Acquisitions of potential royalties associated with development stage biopharmaceutical product candidates are subject to a number of uncertainties.

As part of our royalty aggregator strategy, we may continue to purchase future potential milestone and royalty streams associated with drug products which are in clinical development and have not yet received marketing approval by any regulatory authority or been commercialized. There can be no assurance that the FDA, the EMA or other regulatory authorities will approve such products or that such products will be brought to market timely or at all, or that the market will be receptive to such products. To the extent that any such drug products are not successfully developed and subsequently commercialized, the value of our acquired potential milestone and royalty streams will be negatively affected. The ultimate success of our royalty aggregator strategy will depend on our ability to properly identify and acquire high quality products and the ability of the applicable counterparty to innovate, develop and commercialize their products, in increasingly competitive and highly regulated markets. Their inability to do so would negatively affect our ability to receive royalty and/or milestone payments. In addition, we are dependent, to a large extent, on third parties to enforce certain rights for our benefit, such as protection of a patent estate, adequate reporting and other protections, and their failure to do so would presumably negatively impact our financial condition and results of operations.

If the FDA, the EMA or other regulatory authority approves a development-stage product candidate that generates our royalty, the labeling, packaging, adverse event reporting, storage, advertising, promotion and recordkeeping for the product will be subject to extensive and ongoing regulatory requirements. The subsequent discovery of previously unknown problems with the product, including adverse events of unanticipated severity or frequency, may result in restrictions on the marketing of the product, and could include withdrawal of the product from the market.

In addition, the developers of these development-stage product candidates may not be able to raise additional capital to continue their discovery, development and commercialization activities, which may cause them to delay, reduce the scope of, or eliminate one or more of their clinical trials or research and development programs. If other product developers introduce and market products that are more effective, safer, less invasive or less expensive than the relevant

products that generate our royalties, or if such developers introduce their products prior to the competing products underlying our royalties, such products may not achieve commercial success and thereby result in a loss for us.

Further, the developers of such products may not have sales, marketing or distribution capabilities. If no sales, marketing or distribution arrangements can be made on acceptable terms or at all, the affected product may not be able to be successfully commercialized, which will result in a loss for us. Losses from such assets could have a material adverse effect on our business, financial condition and results of operations.

We intend to continue, and may increase, this strategy of acquiring development-stage product candidates. While we believe that we can readily evaluate and gain conviction about the likelihood of a development-stage product candidate's approval and achieving significant sales, there can be no assurance that our assumptions will prove correct, that regulatory authorities will approve such development-stage product candidates, that such development-stage product candidates will be brought to market timely or at all, or that such products will achieve commercial success.

The ongoing COVID-19 pandemic may continue to, and other actual or threatened epidemics, pandemics, outbreaks, or public health crises may in the future, adversely affect our and our licensees or royalty-agreement counterparties or their licensees, which could cause delays or elimination of our receipts of potential milestones and royalties under our licensing or royalty and milestone acquisition arrangements.

The global spread of COVID-19 and other actual or threatened epidemics, pandemics, outbreaks, or public health crises has adversely impacted and could materially and adversely impact in the future our licensees or royalty-agreement counterparties or their licensees, which has and could further cause delays, suspensions or cancellations of their drug development efforts including, without limitation, their clinical trials, which would correspondingly delay, suspend or negate the timing of our potential receipts of milestones and royalties under our out-licensing or royalty acquisition agreements. The disruptions to our licensees or RPA counterparties or their licensees could include, without limitation:

- delays or difficulties in recruiting and enrolling new patients in their clinical trials;
- delays or difficulties in clinical site initiation;
- diversion of healthcare resources away from the conduct of clinical trials, including the diversion of hospitals serving as their clinical trial sites and hospital staff supporting the conduct of their clinical trials;
- interruption of key clinical trial activities, such as clinical trial site monitoring;
- limitations in employee resources that would otherwise be focused on the conduct of their clinical trials, including because of sickness of employees or their families or the desire of employees to avoid contact with large groups of people;
- interruption in global shipping that may affect the transport of clinical trial supplies and materials;
- potential refusal by the FDA to accept data, including from clinical trials in affected geographies or failure to comply with updated FDA guidance and expectations related to the conduct of clinical trials during the COVID-19 pandemic; and
- delays in receiving approval from the FDA, the EMA and other U.S. and foreign federal, state and local regulatory authorities to initiate their planned clinical trials or to market their products.

The extent to which the COVID-19 pandemic continues to impact our business and prospects and the overall economies of the United States and other countries will depend on numerous evolving factors, which are highly uncertain and cannot be predicted with confidence, such as the duration and scope of the pandemic and mutations in the COVID-19 virus.

Risks Related to our Industry

Biopharmaceutical products are subject to sales risks.

Biopharmaceutical product sales may be lower than expected due to a number of reasons, including pricing pressures, insufficient demand, product competition, failure of clinical trials, lack of market acceptance, obsolescence, loss of patent protection, government regulations, the impact of COVID-19 or other factors, and development-stage product candidates may fail to reach the market. Unexpected side effects, safety or efficacy concerns can arise with respect to a product, leading to product recalls, withdrawals, declining sales or litigation. As a result, payments of our future potential milestones and/or royalties may be reduced or cease. In addition, these potential payments may be delayed, causing our near-term financial performance to be weaker than expected.

Biopharmaceutical products are subject to substantial competition.

The biopharmaceutical industry is a highly competitive and rapidly evolving industry. The length of any product's commercial life cannot be predicted with certainty. There can be no assurance that one or more products on which we are entitled to a potential milestone or royalty will not be rendered obsolete or non-competitive by new products or improvements on which we are not entitled to a potential milestone or royalty, either by the current marketer of such products or by another marketer. Current marketers of products may undertake these development efforts in order to improve their products or to avoid paying our royalty. Adverse competition, obsolescence or governmental and regulatory action or healthcare policy changes could significantly affect the revenues, including royalty-related revenues, of the products which generate our potential milestones and royalties.

Competitive factors affecting the market position and success of each product include:

- effectiveness;
- safety and side effect profile;
- price, including third-party insurance reimbursement policies;
- timing and introduction of the product;
- effectiveness of marketing strategy and execution;
- governmental regulation;
- availability of lower-cost generics and/or biosimilars;
- treatment innovations that eliminate or minimize the need for a product; and
- product liability claims.

Biopharmaceutical products that have the potential to generate future milestones and royalties for us may be rendered obsolete or non-competitive by new products, including generics and/or biosimilars, improvements on existing products or governmental or regulatory action. In addition, as biopharmaceutical companies increasingly devote significant resources to innovate next-generation products and therapies using gene editing and new curative modalities, such as cell and gene therapy, products on which we have a milestone or royalty rights may become obsolete. These developments could have a material adverse effect on the sales of the biopharmaceutical products that have potential to generate our milestones and royalties, and consequently could materially adversely affect our business, financial condition and results of operations.

We depend on our licensees and royalty-agreement counterparties for the determination of royalty and milestone payments. While we typically have primary or back-up rights to audit our licensees and royalty-agreement counterparties, the independent auditors may have difficulty determining the correct royalty calculation, we may not be able to detect errors and payment calculations may call for retroactive adjustments. We may have to exercise legal remedies, if available, to resolve any disputes resulting from any such audit.

The royalty, milestone and other payments we may receive are dependent on our licensees and royalty agreement counterparties and their licensees' achievement of regulatory and developmental milestones and product sales. Each licensee's calculation of the royalty payments is subject to and dependent upon the adequacy and accuracy of its sales and accounting functions, and errors may occur from time to time in the calculations made by a licensee and/or a licensee may fail to report the achievement of royalties or milestones in whole or in part. Our license and royalty agreements typically provide us the primary or back-up right to audit the calculations and sales data for the associated royalty payments; however, such audits may occur many months following our recognition of the royalty revenue, may require us to adjust our royalty revenues in later periods and may require expense on our part. Further, our licensees and royalty-agreement counterparties may be uncooperative or have insufficient records, which may complicate and delay the audit process.

Although we intend to regularly exercise our royalty audit rights as necessary and to the extent available, we rely in the first instance on our licensees and royalty-agreement counterparties to accurately report the achievement of milestones and royalty sales and calculate and pay applicable milestones and royalties and, upon exercise of such royalty and other audit rights, we rely on licensees' and royalty-agreement counterparties' cooperation in performing such audits. In the absence of such cooperation, we may be forced to incur expenses to exercise legal remedies, if available, to enforce our agreements.

The lack of liquidity of our acquisitions of future potential milestones and royalties may adversely affect our business and, if we need to sell any of our acquired assets, we may not be able to do so at a favorable price, if at all. As a result, we may suffer losses.

We generally acquire milestone and royalty rights that have limited secondary resale markets and may be subject to transfer restrictions. The illiquidity of most of our milestone and royalty receivable assets may make it difficult for us to dispose of them at a favorable price if at all and, as a result, we may suffer losses if we are required to dispose of any or all such assets in a forced liquidation or otherwise. In addition, if we liquidate all or a portion of our potential future milestone and/or purchased royalty stream interests quickly or relating to a forced liquidation, we may realize significantly less than the value at which we had previously recorded these interests.

Our royalty aggregator strategy may require that we register with the SEC as an "investment company" in accordance with the Investment Company Act of 1940.

The rules and interpretations of the SEC and the courts, relating to the definition of "investment company" are very complex. While we currently intend to conduct our operations so that we will not be an investment company under applicable SEC interpretations, we can provide no assurance that the SEC would not take the position that the Company would be required to register under the '40 Act and comply with the '40 Act's registration and reporting requirements, capital structure requirements, affiliate transaction restrictions, conflict of interest rules, requirements for disinterested directors, and other substantive provisions. We monitor our assets and income for compliance under the '40 Act and seek to conduct our business activities to ensure that we do not fall within its definitions of "investment company" or that we qualify under one of the exemptions or exclusions provided by the '40 Act and corresponding SEC regulations. If we were to become an "investment company" and be subject to the restrictions of the '40 Act, those restrictions likely would require significant changes in the way we do business and add significant administrative costs and burdens to our operations. To ensure we do not fall within the '40 Act, we may need to take various actions which we might otherwise not pursue. These actions may include restructuring the Company and/or modifying our mixture of assets and income or a liquidation of certain of our assets.

Our licensees or royalty-agreement counterparties or their licensees could be subject to natural disasters, public health crises, political crises and other catastrophic events that could hinder or disrupt development efforts.

We depend on our licensees and royalty-agreement counterparties and their licensees to successfully develop and commercialize product candidates for which we may receive milestone, royalty and other payments in the future. Our licensees and royalty-agreement counterparties and their licensees operate research and development efforts in various locations in the United States and internationally. If any of their facilities is affected by natural disasters, such as earthquakes, tsunamis, power shortages or outages, floods or monsoons, public health crises, such as pandemics and epidemics, political crises, such as terrorism, war, political instability, labor disputes or strikes, other conflict, or other events outside of their control, their research and development efforts could be disrupted, which could result in the delay or discontinuation of development of one or more of the product candidates in which we have rights to future milestone and/or royalty payments which could have a material adverse effect on our business, results of operations and prospects.

Because many of the companies with which we do business also are in the biotechnology sector, the volatility of that sector can affect us indirectly as well as directly.

The same factors that affect us directly also can adversely affect us indirectly by affecting the ability of our partners and others with whom we do business to meet their obligations to us and reduce our ability to realize the value of the consideration provided to us by these other companies in connection with their licensing of our products.

Risks Related to our Financial Results and Capital Requirements

We have sustained losses in the past, and we expect to sustain losses in the foreseeable future.

We have incurred significant operating losses and negative cash flows from operations since our inception. We generated net loss of $9.8 million and negative cash flows from operations of $4.9 million for the three months ended March 31, 2023, and we had an accumulated deficit of $1.2 billion as of March 31, 2023. We do not know whether we will ever achieve sustained profitability or whether cash flow from future operations will be sufficient to meet our needs.

To date, we have financed our operations primarily through the sale of equity securities and debt and royalty interests, and payments received under our collaboration and licensing arrangements. The size of our future net losses will depend, in part, on the rate of our future expenditures and our and our partners' ability to generate revenues. If our partners' product candidates are not successfully developed or commercialized, or if revenues are insufficient following regulatory approval, we will not achieve profitability and our business may fail. Our ability to achieve profitability is dependent in large part on the success of our and our partners' ability to license product candidates, and the success of our partners' development programs, both of which are uncertain. Our success is also dependent on our partners obtaining regulatory approval to market product candidates which may not materialize or prove to be successful.

Unstable market and global economic conditions, including adverse developments affecting the financial services industry, such as actual events or concerns involving liquidity, defaults or non-performance by financial institutions or transactional counterparties, may have adverse consequences on our business, financial condition and stock price.*

The global credit and financial markets have experienced volatility, including as a result of the COVID-19 pandemic, changes in interest rates, and economic inflation, which has included diminished liquidity and credit availability, declines in consumer confidence, declines in economic growth, high inflation, uncertainty about economic stability and changes in unemployment rates. The financial markets and the global economy may also be adversely affected by the current or anticipated impact of military conflict, acts of terrorism or other geopolitical events. Sanctions imposed by the United States and other countries in response to such conflicts, including the one in Ukraine, may also continue to adversely impact the financial markets and the global economy, and any economic countermeasures by the affected countries or others could heighten market and economic instability. There can be no assurance that further deterioration in credit and financial markets and confidence in economic conditions will not occur. Our royalty aggregator strategy may be adversely affected by any such economic downturn, volatile business environment or continued unpredictable and unstable market conditions. Failure to secure any necessary financing in a timely manner could have a material adverse effect on our growth strategy, financial performance and stock price.

In addition, actual events involving limited liquidity, defaults, non-performance or other adverse developments that affect financial institutions, transactional counterparties or other companies in the financial services industry or the financial services industry generally, or concerns or rumors about any events of these kinds or other similar risks, have in the past and may in the future lead to market-wide liquidity problems. For example, on March 10, 2023, Silicon Valley Bank was closed by the California Department of Financial Protection and Innovation, which appointed the FDIC, as receiver. Similarly, on March 12, 2023, Signature Bank and Silvergate Capital Corp. were each swept into receivership.

Although we assess our banking relationships as we believe necessary or appropriate, our access to funding sources in amounts adequate to finance or capitalize our current and projected future business operations could be significantly impaired by factors that affect us, the financial institutions with which we have arrangements directly, or the financial services industry or economy in general. These factors could involve financial institutions or financial services industry companies with which we have financial or business relationships, but could also include factors involving financial markets or the financial services industry generally.

Our royalty aggregator strategy may require us to raise additional funds to acquire milestone and royalty interests; we cannot be certain that funds will be available or available at an acceptable cost of capital, and if they are not available, we may be unsuccessful in acquiring milestone and royalty interests to sustain the business in the future.

We may need to commit substantial funds to continue our business, and we may not be able to obtain sufficient funds on acceptable terms, if at all. If the current equity and credit markets deteriorate, it may make any additional debt or equity financing more difficult and more costly. Any additional debt financing or additional equity that we raise may contain terms that are not favorable to us and/or result in dilution to our stockholders, including pursuant to our 2018 Common Stock ATM Agreement, as amended and to our 2021 Series B Preferred Stock ATM Agreement. If we raise additional funds through licensing arrangements with third parties, we may be required to relinquish some rights to our technologies or our product candidates, grant licenses on terms that are not favorable to us or enter into a license arrangement for a product candidate at an earlier stage of development or for a lesser amount than we might otherwise choose.

If adequate funds are not available on a timely basis, we may:

- reduce or eliminate royalty aggregation efforts;
- further reduce our capital or operating expenditures;
- curtail our spending on protecting our intellectual property; or
- take other actions which may adversely affect our financial condition or results of operations.

Changes in the potential royalty acquisition market, including its structure and participants, or a reduction in the growth of the biopharmaceutical industry, could lead to diminished opportunities for us to acquire potential milestones and royalties, fewer potential milestones and royalties (or potential milestones or royalties of significant scale) being available, or increased competition for potential royalties. Even if we continue to acquire potential royalties and they become actual royalties, they may not generate a meaningful return for a period of several years, if at all, due to the price we pay for such royalties or other factors relating to the underlying products. As a result, we may not be able to continue to acquire potential milestones and royalties as we have in the past, or at all.

We have a continuing obligation to pay quarterly dividends to holders of our Series A Preferred Stock and Series B Preferred Stock, which will be an on-going expenditure for us and may limit our ability to borrow additional funds.

Holders of our Series A Preferred Stock are entitled to receive, when and as declared by our Board of Directors, out of funds legally available for the payment of dividends, cumulative cash dividends at the rate of 8.625% of the $25.00 liquidation preference per year (equivalent to $2.15625 per year). Dividends on the Series A Preferred Stock will accumulate and be cumulative from, and including, the date of original issue by us of the Series A Preferred Stock. Dividends will be payable in arrears on or about the 15th day of January, April, July and October. In the event of any

voluntary or involuntary liquidation, dissolution or winding up of our affairs, the holders of shares of Series A Preferred Stock are entitled to be paid out of our assets legally available for distribution to our stockholders a liquidation preference of $25.00 per share, plus an amount equal to any accumulated and unpaid dividends up to the date of payment (whether or not declared), before any distribution or payment may be made to holders of shares of common stock or any other class or series of our equity stock ranking, as to liquidation rights, junior to the Series A Preferred Stock. The shares of Series A Preferred Stock are redeemable at our option, in whole or in part, at redemption prices ranging from $26.00 per share to $25.00 per share, plus any accrued and unpaid dividends, depending on the date of redemption.

Holders of depositary shares representing interests in our Series B Preferred Stock are entitled to receive, when and as declared by our Board of Directors, out of funds legally available for the payment of dividends, 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 (equivalent to $2,093.75 per year per share or $2.09375 per year per depositary share). Dividends on the Series B Preferred Stock will accumulate and be cumulative from, and including, the date of original issue by us of the Series B Preferred Stock. Dividends are payable in arrears on or about the 15th day of January, April, July and October. The shares of Series B Preferred Stock are redeemable at our option, in whole or in part, at redemption prices ranging from $26,000.00 per share ($26.00 per depositary share) to $25,000.00 per share ($25.00 per depositary share), plus any accrued and unpaid dividends, depending on the date of redemption.

The payment of cash dividends and share repurchases is subject to limitations under applicable laws and the discretion of our Board of Directors and is determined after considering current conditions, including earnings, other operating results and capital requirements. Decreases in asset values or increases in liabilities can reduce net earnings and stockholders' equity. A deficit in stockholders' equity could limit our ability to pay dividends and make share repurchases under Delaware law. On the other hand, our continued obligation to pay dividends to the holders of our Series A Preferred Stock and depositary shares representing interests in Series B Preferred Stock could restrict us from additional borrowings or make them more costly.

The holders of preferred stock have rights that are senior to those of our common stockholders.

As of March 31, 2023, we had issued and outstanding 984,000 shares of Series A Preferred Stock with a liquidation preference of $25.00 per share, plus an amount equal to any accumulated and unpaid dividends up to the date of payment (whether or not declared). Additionally, as of March 31, 2023, we had issued and outstanding 1,600,000 depositary shares, each representing a 1/1000th fractional interest in a share of our Series B Preferred Stock with a liquidation preference of $25,000 per share of Series B Preferred Stock ($25.00 per depositary share), plus an amount equal to any accumulated and unpaid dividends up to the date of payment (whether or not declared). Our preferred stock is senior to our shares of common stock in right of payment of dividends and other distributions. In the event of our bankruptcy, dissolution or liquidation, the holders of our preferred stock must be satisfied before any distributions can be made to our common stockholders.

Information available to us about the biopharmaceutical products underlying the potential royalties we buy may be limited and therefore our ability to analyze each product and its potential future cash flow may be similarly limited.

We may have limited information concerning the products generating the future potential milestones and royalties we are evaluating for acquisition. Often following our acquisition, the information we have regarding products underlying a potential milestone or royalty may be limited to the information that is available in the public domain. Therefore, there may be material information that relates to such products that we would like to know but do not have and may not be able to obtain. For example, we do not always know the results of studies conducted by sponsors of the products of others or the nature or number of any complaints from doctors or users of such products. In addition, the market data that we obtain independently may also prove to be incomplete or incorrect. Due to these and other factors, the actual potential cash flow from a potential royalty may be significantly lower than our estimates.

Our future income is dependent upon numerous potential milestone and royalty-specific assumptions and, if these assumptions prove not to be accurate, we may not achieve our expected rates of returns.

Our business model is based on multiple-year internal and external forecasts regarding potential product sales and numerous product-specific assumptions in connection with each potential milestone and royalty acquisition, including where we have limited information regarding the product. There can be no assurance that the assumptions underlying our financial models, including those regarding potential product sales or competition, patent expirations or license terminations for the products underlying our portfolio, are accurate. These assumptions involve a significant element of subjective judgment and may be and in the past have been adversely affected by post-acquisition changes in market conditions and other factors affecting the underlying product. Our assumptions regarding the financial stability or operational or marketing capabilities of the partner obligated to pay us potential royalties may also prove to be incorrect. Due to these and other factors, the assets in our current portfolio or future assets may not generate our projected returns or in the time periods we expect. This could negatively impact our results of operation for a given period.

Reductions or declines in income from potential milestones and royalties, or significant reductions in potential milestone or royalty payments compared to expectations, or impairments in the value of potential milestones and royalties acquired could have a material adverse effect on our financial condition and results of operation.

The amount and duration of a royalty usually varies on a country-by-country basis and can be based on a number of factors, such as payments to third party licensors, whether the product is sold singly or in combination, patent expiration dates, regulatory exclusivity, years from first commercial sale of the applicable drug product, the entry of competing generic or biosimilar products, or other terms set out in the contracts governing the royalty. It is common for royalty durations to expire earlier or later than anticipated due to unforeseen positive or negative developments over time, including with respect to the granting of patents and patent term extensions, the invalidation of patents, claims of patent misuse, litigation between the party controlling the patents and third party challengers of the patents, the ability of third parties to design around or circumvent valid patents, the granting of regulatory exclusivity periods or extensions, timing of the arrival of generic or biosimilar competitor products, changes to legal or regulatory regimes affecting intellectual property rights or the regulation of pharmaceutical products, product life cycles, and industry consolidations. If an unexpected reduction in a royalty amount or shortening of a potential royalty term were to occur, it could result in a reduction in potential income from milestones and royalties, a significant reduction in potential milestones and royalty payments compared to expectations, or a permanent impairment of such potential milestones and royalty payments.

A large percentage of the calculated net present value of our portfolio is represented by a limited number of products. The failure of any one of these products to move forward in clinical development or commercialization may have a material adverse effect on our financial condition and results of operation.

Our asset portfolio may not be fully diversified by product, therapeutic area, geographic region or other criteria. Any significant deterioration in the amount or likelihood of receipt of potential cash flows from the top products in our asset portfolio could have a material adverse effect on our business, financial condition and results of operation. For example, in September 2021, Novartis announced its decision to discontinue its study of CFZ533 (iscalimab) in kidney transplant. In September 2022, after an interim analysis of data, Novartis also decided to discontinue its study of CFZ533 in liver transplant. In addition, should the payor of any future potential milestones or royalties decline to pay such potential milestones and royalties for any reason, such failure may result in a material adverse effect on our financial condition and results of operation.

Risks Related to Our Milestone and Royalty Streams

We may not be able to successfully identify and acquire potential milestone and royalty streams on other products, product candidates, or programs, or other companies to grow and diversify our business, and, even if we are able to do so, we may not be able to successfully manage the risks associated with integrating any such products, product candidates, programs or companies into our business or we may otherwise fail to realize the anticipated benefits of these acquisitions.

To grow and diversify our business, we plan to continue our business development efforts to identify and seek to acquire and/or in-license potential milestone and royalty streams or companies. Future growth through acquisition or in-licensing will depend upon the availability of suitable products, product candidates, programs or companies for acquisition or in-licensing on acceptable prices, terms and conditions. Even if appropriate opportunities are available, we may not be able to acquire rights to them on acceptable terms, or at all. The competition to acquire or in-license rights to promising products, product candidates, programs and companies is fierce, and many of our competitors are large, multinational pharmaceutical and biotechnology companies with considerably more financial, development and commercialization resources, personnel, and experience than we have. In order to compete successfully in the current business climate, we may have to pay higher prices for assets than may have been paid historically, which may make it more difficult for us to realize an adequate return on any acquisition.

Even if we are able to successfully identify and acquire or in-license new products, product candidates, programs or companies, we may not be able to successfully manage the risks associated with integrating any products, product candidates, programs or companies into our business or the risks arising from anticipated and unanticipated problems in connection with an acquisition or in-licensing. Further, while we seek to mitigate risks and liabilities of potential acquisitions through, among other things, due diligence, indemnification and risk allocation, there may be risks and liabilities that such due diligence efforts fail to discover, that are not disclosed to us, or that we inadequately assess. Any failure in identifying and managing these risks and uncertainties effectively would have a material adverse effect on our business. In any event, we may not be able to realize the anticipated benefits of any acquisition or in-licensing for a variety of reasons, including the possibility that a product candidate fails to advance to clinical development, proves not to be safe or effective in clinical trials, or that a product fails to reach its forecasted commercial potential or that the integration of a product, product candidate, program or company gives rise to unforeseen difficulties and expenditures. Any failure in identifying and managing these risks and uncertainties would have a material adverse effect on our business.

If our potential royalty providers' therapeutic product candidates do not receive regulatory approval, our potential royalty providers will be unable to market them.

Our potential royalty providers' product candidates cannot be manufactured and marketed in the United States or any other countries without required regulatory approvals. The U.S. government and governments of other countries extensively regulate many aspects of our partners' product candidates, including:

- clinical development and testing;
- manufacturing;
- labeling;
- storage;
- record keeping;
- promotion and marketing; and
- importing and exporting.

In the United States, the FDA regulates pharmaceutical products under the Federal Food, Drug, and Cosmetic Act and other laws, including, in the case of biologics, the Public Health Service Act.

Initiation of clinical trials requires approval by health authorities. Clinical trials involve the administration of the investigational new drug to healthy volunteers or to patients under the supervision of a qualified principal investigator. Clinical trials must be conducted in accordance with FDA and International Conference on Harmonization Good Clinical Practices and the European Clinical Trials Directive, as applicable, under protocols that detail the objectives of the study, the parameters to be used to monitor safety and the efficacy criteria to be evaluated. Other national, foreign and local regulations also may apply. The developer of the drug must provide information relating to the characterization and controls of the product before administration to the patients participating in the clinical trials. This requires developing approved assays of the product to test before administration to the patient and during the conduct of the trial. In addition, developers of pharmaceutical products must provide periodic data regarding clinical trials to the FDA and other health authorities, and these health authorities may issue a clinical hold upon a trial if they do not believe, or cannot confirm, that the trial can be conducted without unreasonable risk to the trial participants.

The results of the preclinical studies and clinical testing, together with chemistry, manufacturing and controls information, are submitted to the FDA and other health authorities in the form of a NDA for a drug, and in the form of a BLA for a biological product, requesting approval to commence commercial sales. In responding to an NDA or BLA, the FDA or foreign health authorities may grant marketing approvals, request additional information or further research, or deny the application if they determine the application does not satisfy regulatory approval criteria. Regulatory approval of an NDA, BLA, or supplement is never guaranteed. The approval process can take several years, is extremely expensive and can vary substantially based upon the type, complexity, and novelty of the products involved, as well as the target indications. Our potential royalty providers ultimately may not be able to obtain approval in a timely fashion or at all.

The FDA and foreign health authorities have substantial discretion in the drug and biologics approval processes. Despite the time and expense incurred, failure can occur at any stage, and our potential development partners could encounter problems that cause abandonment of clinical trials or cause them to repeat or perform additional preclinical, clinical or manufacturing-related studies.

Changes in the regulatory approval policy during the development period, changes in, or the enactment of additional regulations or statutes, or changes in regulatory review for a submitted product application may cause delays in the approval or rejection of an application.

The FDA and other regulatory agencies have substantial discretion in both the product approval process and manufacturing facility approval process, and as a result of this discretion and uncertainties about outcomes of testing, we cannot predict at what point, or whether, the FDA or other regulatory agencies will be satisfied with our licensees' submissions or whether the FDA or other regulatory agencies will raise questions that may be material and delay or preclude product approval or manufacturing facility approval. In light of this discretion and the complexities of the scientific, medical and regulatory environment, our or our potential royalty providers' interpretation or understanding of the FDA's or other regulatory agencies' requirements, guidelines or expectations may prove incorrect, which also could delay further or increase the cost of the approval process.

Our potential milestone and royalty providers face uncertain results of clinical trials of product candidates.

Drug development has inherent risk, and our potential milestone and royalty providers are required to demonstrate through adequate and well-controlled clinical trials that product candidates are effective, with a favorable benefit-risk profile for use in their target profiles before they can seek regulatory approvals for commercial use. It is possible our potential royalty providers may never receive regulatory approval for any licensed product candidates. Even if a product candidate receives regulatory approval, the resulting product may not gain market acceptance among physicians, patients, healthcare payors and the medical community.

Our potential milestone and royalty providers' product candidates require significant additional research and development, extensive preclinical studies and clinical trials and regulatory approval prior to any commercial sales. This process is lengthy and expensive, often taking a number of years. As clinical results frequently are susceptible to varying

interpretations that may delay, limit or prevent regulatory approvals, the length of time necessary to complete clinical trials and to submit an application for marketing approval for a final decision by a regulatory authority varies significantly. As a result, it is uncertain whether:

- our potential milestone and royalty providers' future filings will be delayed;
- our potential milestone and royalty providers' preclinical studies will be successful;
- our potential milestone and royalty providers will be successful in generating viable product candidates;
- we will be successful in finding collaboration and licensing partners to advance our product candidates on our behalf;
- our potential milestone and royalty providers will be able to provide necessary data;
- results of future clinical trials by our potential milestone and royalty providers will justify further development; or
- our potential milestone and royalty providers ultimately will achieve regulatory approval for product candidates in which we have an interest.

The timing of the commencement, continuation and completion of clinical trials by our potential milestone and royalty providers may be subject to significant delays relating to various causes, including failure to complete preclinical testing and earlier-stage clinical trials in a timely manner, inability to engage contract research organizations and other service providers, scheduling conflicts with participating clinicians and clinical institutions, changes in key personnel at clinical institutions, difficulties in identifying and enrolling patients who meet trial eligibility criteria and shortages of available drug supply. In addition, since we and our royalty agreement counterparties license our product candidates to others to fund and conduct clinical trials, we, and they, have limited control over how quickly and efficiently such licensees advance those trials. Patient enrollment is a function of many factors, including the size of the patient population, the proximity of patients to clinical sites, the concentration of patients in specialist centers, the eligibility criteria for the trial, the existence of competing clinical trials and the availability of alternative or new treatments. Regardless of the initial size or relative complexity of a clinical trial, the costs of such trial may be higher than expected due to increases in duration or size of the trial, changes in the protocol under which the trial is being conducted, additional or special requirements of one or more of the healthcare centers where the trial is being conducted, or changes in the regulatory requirements applicable to the trial or in the standards or guidelines for approval of the product candidate being tested or for other unforeseen reasons.

In addition, our potential milestone and royalty providers may conduct clinical trials in foreign countries, which may subject them to further delays and expenses as a result of increased drug shipment costs, additional regulatory requirements and the engagement of foreign clinical research organizations, and may expose our potential milestone and royalty providers to risks associated with foreign currency transactions to make contract payments denominated in the foreign currency where the trial is being conducted.

New products and technologies of other companies may render some or all of our potential milestone and royalty providers' product candidates noncompetitive or obsolete.

New developments by others may render our potential milestone and royalty providers' product candidates or technologies obsolete or uncompetitive. Technologies developed and utilized by the biotechnology and pharmaceutical industries are changing continuously and substantially. Competition in antibody-based technologies is intense and is expected to increase in the future as a number of established biotechnology firms and large chemical and pharmaceutical companies advance in these fields. In addition, as biopharmaceutical companies increasingly devote significant resources to innovate next-generation products and therapies using gene editing and new curative modalities, such as cell and gene therapy, products on which we have a milestone or royalty rights may become obsolete. Many of these competitors may

be able to develop products and processes competitive with or superior to our potential milestone and royalty providers for many reasons, including that they may have:

- significantly greater financial resources;
- larger research and development staffs;
- entered into arrangements with, or acquired, biotechnology companies to enhance their capabilities; or
- extensive experience in preclinical testing and human clinical trials.

These factors may enable others to develop products and processes competitive with or superior to our own or those of our potential milestone and royalty providers. In addition, a significant amount of research in biotechnology is being carried out in universities and other non-profit research organizations. These entities are becoming increasingly interested in the commercial value of their work and may become more aggressive in seeking patent protection and licensing arrangements. Furthermore, many companies and universities tend not to announce or disclose important discoveries or development programs until their patent position is secure or, for other reasons, later. As a result, we and our potential milestone and royalty providers may not be able to track development of competitive products, particularly at the early stages.

Positive developments in connection with a potentially competing product may have an adverse impact on our future potential for receiving revenue derived from development milestones and royalties. For example, if another product is perceived to have a competitive advantage, or another product's failure is perceived to increase the likelihood that our licensed product will fail, our potential milestone and royalty providers may halt development of product candidates in which we have an interest.

Our potential royalty providers may be unable to price our products effectively or obtain coverage and adequate reimbursement for sales of our products, which would prevent our potential royalty providers' products from becoming profitable and negatively affect the royalties we may receive.

If our potential royalty providers succeed in bringing our product candidates to the market, they may not be considered cost effective, and reimbursement to the patient may not be available or may not be sufficient to allow our potential royalty providers to sell the products on a competitive basis. In both the United States and elsewhere, sales of medical products and treatments are dependent, in part, on the availability of coverage and adequate reimbursement from third-party payors, such as government and private insurance plans. Significant uncertainty exists as to the coverage and reimbursement status of any products for which our potential royalty providers may obtain regulatory approval. Even if coverage is available, the associated reimbursement rate may not be adequate for our potential royalty providers to cover related marketing costs. Additionally, coverage and reimbursement policies for drug products can differ significantly from payor to payor as there is no uniform policy of coverage and reimbursement for drug products among third-party payors in the United States. Therefore, the process of obtaining coverage and reimbursement is often time-consuming and costly. Thus, even if our partners' product candidates are approved by the FDA, our royalty partners may not be able to price the products effectively or obtain coverage and adequate reimbursement for their products, which could adversely affect the royalties we receive.

Third-party payors are increasingly challenging the prices charged for pharmaceutical products and services. Our business is affected by the efforts of government and third-party payors to contain or reduce the cost of healthcare through various means. In the United States, there have been and will continue to be a number of federal and state proposals to implement government controls on pricing.

In addition, the emphasis on managed care in the United States has increased and will continue to increase the pressure on the pricing of pharmaceutical products. We cannot predict whether any legislative or regulatory proposals will be adopted or the effect these proposals or managed care efforts may have on our or our potential milestone and royalty providers' businesses.

We do not know whether there will be, or will continue to be, a viable market for the product candidates in which we have an ownership or royalty interest.

Even if product candidates in which we have an interest receive approval in the future, they may not be accepted in the marketplace. In addition, our potential royalty providers may experience difficulties in launching new products, many of which are novel and based on technologies that are unfamiliar to the healthcare community. We have no assurance healthcare providers and patients will accept such products, if developed. Similarly, physicians may not accept a product if they believe other products to be more effective or more cost effective or are more comfortable prescribing other products.

Furthermore, government agencies, as well as private organizations involved in healthcare, from time to time publish guidelines or recommendations to healthcare providers and patients. Such guidelines or recommendations can be very influential and may adversely affect product usage directly (for example, by recommending a decreased dosage of a product in conjunction with a concomitant therapy) or indirectly (for example, by recommending a competitive product over a product in which we have an ownership or royalty interest). Consequently, we do not know if physicians or patients will adopt or use products in which we have an ownership or royalty interest for their approved indications.

Even approved and marketed products are subject to risks relating to changes in the market for such products. Introduction or increased availability of generic or biosimilar versions of products can alter the market acceptance of branded products. In addition, unforeseen safety issues may arise at any time, regardless of the length of time a product has been on the market which may lead to litigation, increased costs and delays or removal of the product from the market.

We are exposed to an increased risk of product liability claims.

The testing, marketing and sales of medical products entails an inherent risk of allegations of product liability. In the event of one or more large, unforeseen awards of damages against us, our product liability insurance may not provide adequate coverage. A significant product liability claim for which we were not adequately covered by insurance or indemnified by a third party would have to be paid from cash or other assets, which could have an adverse effect on our business, financial condition and the value of our common stock. To the extent we have sufficient insurance coverage, such a claim would presumably result in higher subsequent insurance rates. In addition, product liability claims can have various other ramifications, regardless of merit or eventual outcome, including loss of future sales opportunities, discontinuation of clinical trials, increased costs associated with replacing products, a negative impact on our goodwill and reputation, costs to defend litigation, and divert our management's attention from our business, each of which could also adversely affect our business and operating results.

If we and our potential royalty providers are unable to protect our intellectual property, in particular patent protection for principal products, product candidates and processes in which we have an ownership or royalty interest, and prevent the use of the covered subject matter by third parties, our potential royalty providers' ability to compete in the market will be harmed, and we may not realize our profit potential.

We and our potential royalty providers rely on patent protection, as well as a combination of copyright, trade secret, and trademark laws to protect our proprietary technology and prevent others from duplicating our products or product candidates. However, these means may afford only limited protection and may not:

- prevent our competitors from duplicating our products and those of our potential royalty providers;
- prevent our competitors from gaining access to our proprietary information and technology and that of our potential royalty providers; or
- permit us or our potential royalty providers to gain or maintain a competitive advantage.

Because of the length of time and the expense associated with bringing new products to the marketplace, we and our potential royalty providers hold and are in the process of applying for a number of patents in the United States and abroad to protect product candidates and important processes and also have obtained or have the right to obtain exclusive

licenses to certain patents and applications filed by others. However, the mere issuance of a patent is not conclusive as to its validity or its enforceability.

The U.S. Federal Courts, the U.S. Patent & Trademark Office or equivalent national courts or patent offices elsewhere may invalidate our patents or find them unenforceable. The America Invents Act introduced post-grant review procedures subjecting U.S. patents to post-grant review procedures similar to European oppositions. U.S. patents owned or licensed by us or our licensees may therefore be subject to post-grant review procedures, as well as other forms of review and re-examination. A decision in such proceedings adverse to our interests could result in the loss of valuable patent rights, which would have a material adverse effect on our business. In addition, the laws of foreign countries may not protect our intellectual property rights effectively or to the same extent as the laws of the United States.

If our, and our potential royalty providers intellectual property rights are not protected adequately, our potential royalty providers may not be able to commercialize technologies or products in which we have an ownership or royalty interest, and their competitors could commercialize such technologies or products, which could result in a decrease in our potential royalty providers' sales and market share that would harm our business and operating results. Specifically, the patent position of biotechnology companies generally is highly uncertain and involves complex legal and factual questions. The legal standards governing the validity of biotechnology patents are in transition, and current defenses as to issued biotechnology patents may not be adequate or available in the future. Accordingly, there is uncertainty as to:

- whether any pending or future patent applications held by us or our potential royalty providers will result in an issued patent, or whether issued patents will provide meaningful protection against competitors or competitive technologies;

- whether competitors will be able to design around our or our potential royalty providers' patents or develop and obtain patent protection for technologies, designs or methods that are more effective than those covered by our or our potential royalty providers' patents and patent applications; or

- the extent to which our or our potential royalty providers' product candidates could infringe on the intellectual property rights of others, which may lead to costly litigation, result in the payment of substantial damages or royalties, reduce the royalty rate due to us, and prevent our potential royalty providers from using our technology or product candidates.

If certain patents issued to others are upheld or if certain patent applications filed by others are issued and upheld, our potential royalty providers may require licenses from others to develop and commercialize certain potential products in which we have an ownership or royalty interest. These licenses, if required, may not be available on acceptable terms, or may trigger contractual royalty offset clauses in our license agreements, or those of our royalty-agreement counterparties. We may become involved in litigation to determine the proprietary rights of others, and any such litigation will presumably be costly, time consuming, may not be adequately covered by insurance and may have other adverse effects on our business, such as inhibiting our potential royalty providers' ability to compete in the marketplace and absorbing significant management time.

Due to the uncertainties regarding biotechnology patents, we also have relied and will continue to rely upon trade secrets, know-how and continuing technological advancement to develop and maintain our competitive position. Our employees and contractors are typically required to sign confidentiality agreements under which they agree not to use or disclose any of our proprietary information. Research and development contracts and relationships between us and our scientific consultants and potential licensees provide access to aspects of our know-how that are protected generally under confidentiality agreements. These confidentiality agreements may be breached or may not be enforced by a court. To the extent proprietary information is divulged to competitors or to the public generally, such disclosure may adversely affect our licensees' ability to develop or commercialize our products by giving others a competitive advantage or by undermining our patent position.

In addition, periodic maintenance fees, renewal fees, annuity fees and various other governmental fees on patents and or applications will be due to the U.S. and various foreign patent offices at various points over the lifetime of our and our licensees' patents and/or applications. We have systems in place to remind us to pay these fees, and we rely on our

outside patent annuity service to pay these fees when due. Additionally, the U.S. and various foreign patent offices require compliance with a number of procedural, documentary, fee payment and other similar provisions during the patent application process. We employ reputable law firms and other professionals to help us comply, and in many cases, an inadvertent lapse can be cured by payment of a late fee or by other means in accordance with rules applicable to the particular jurisdiction. However, there are situations in which noncompliance can result in abandonment or lapse of the patent or patent application, resulting in partial or complete loss of patent rights in the relevant jurisdiction. If such an event were to occur, it could have a material adverse effect on our business.

No assurance can be given that our, or our partners or licensees' patents will be extended upon expiration, which may have an effect on our financial condition and results of operation.

We hold and have filed applications for a number of patents in the United States and internationally to protect our products and technology and have the right to obtain licenses to, or income streams based on, certain patents and applications filed by others. However, the life of a patent, and thus the protection it affords, is limited. Significant patents in our portfolio will expire in the coming years and while various extensions may be available, on a jurisdiction-by-jurisdiction basis, continuous patent protection is not guaranteed. While we expect to seek, and expect our partners to seek, extensions of patent terms for issued patents where available and when necessary, failure to secure patent extensions may have an effect on our financial condition and results of operations.

Litigation regarding intellectual property and/or the enforcement of our contractual rights against licensees and third parties can be costly and expose us to risks of counterclaims against us.*

From time to time, we are required to engage in litigation, arbitration or other proceedings to protect our intellectual property and/or enforce our contractual rights against former or current licensees or third parties, including third-party collaborators of such licensees. The cost to us of complex proceedings of this type, even if resolved in our favor, can be substantial, and the parties opposing us in such proceedings may be able to sustain the cost of such proceedings more effectively than we can if they have substantially greater resources than we have. Any such proceedings and any negotiations leading up to them also may be time-consuming and can divert management's attention and resources. If a proceeding of this type is resolved against us, we may lose the value associated with contract rights contained in our arrangements with licensees and third parties, the patents that are the subject of such proceeding may be declared invalid, we could be exposed to counterclaims against us, and we could be held liable for significant damages, fees and/or costs. While it is our current plan to continue to review and pursue, on a selective basis, potential material contractual breaches against licensees and third parties (including third-party collaborators of licensees) and/or infringement of our intellectual property rights or technology, there can be no assurance that any such enforcement actions will be successful, or if successful, the timing of such success or that we will have sufficient capital to prosecute any such actions to a successful conclusion.

For example, in June 2021, we initiated a binding arbitration proceeding with one of our licensees (the "Licensee") at the American Arbitration Association/International Centre for Dispute Resolution, seeking milestone and royalty payments under our license agreement. A hearing before a panel of arbitrators was held in November 2022, and the parties submitted post-hearing briefs. On March 21, 2023, we received an adverse decision in this arbitration proceeding. The panel of arbitrators declined to award us damages and ruled that the license agreement has expired. The panel ruled that we are responsible for the Licensee's costs as well as arbitrators' and administrative fees previously incurred by the Licensee of $4.1 million.

In addition, we may be subject to claims that we, or our licensees, are infringing other parties' patents. If such claims are resolved against us, we or our licensees may be enjoined from developing, manufacturing, selling or importing products, processes or services unless we obtain a license from the other party. Such a license may not be available on reasonable terms or at all, thus preventing us, or our licensees, from using these products, processes or services and adversely affecting our potential future revenue.

Uncertainties resulting from our participation in litigation, arbitration or other proceedings involving intellectual property and/or contractual rights could have a material adverse effect on our or our partners' ability to compete in the marketplace. There could also be public announcements of the results of hearings, motions or interim proceedings or

developments. If securities analysts or investors perceive these results to be negative, the perceived value of the drug product candidates as to which we hold potential milestone or royalty interests, or intellectual property or contractual rights could be diminished. Accordingly, the market price of our common stock may decline. Uncertainties resulting from the initiation and continuation of litigation, arbitration or other proceedings involving intellectual property and/or contractual rights could have a material adverse effect on our business, financial condition and results of operation.

Risks Related to Our Reliance on Third Parties

We and our partners rely heavily on license and collaboration relationships, and any disputes or litigation with our partners or termination or breach of any of the related agreements could reduce the financial resources available to us, including our ability to receive milestone payments and future potential royalty and other revenues. License or collaboration agreements relating to products may, in some instances, be unilaterally terminated or disputes may arise which may affect our potential milestones, royalties and other payments.

License or collaboration agreements relating to the products generating our future potential milestones and royalties and other payment rights may be terminated, which may adversely affect sales of such products and therefore the potential payments we may receive. For example, under certain license or collaboration agreements, marketers may retain the right to unilaterally terminate the agreements. When the last patent covering a product expires or is otherwise invalidated in a country, a marketer may be economically motivated to terminate the applicable license or collaboration agreement, either in whole or with respect to such country, in order to terminate its payment and other obligations. In the event of such a termination, a licensor (which may be us in the case of our out-licensed products) or collaborator may no longer receive all of the payments it expected to receive from the applicable licensee or collaborator and may also be unable to find another company to continue developing and commercializing the product on the same or similar terms as those under the license or collaboration agreement that has been terminated.

In addition, license or collaboration agreements may fail to provide significant protection for the applicable licensor (which may be us in the case of our out-licensed products) or collaborator in case of the applicable licensee's or collaborator's failure to perform or in the event of disputes. License and collaboration agreements which relate to the products underlying our potential future milestones, royalties and other payment rights, are complex and certain provisions in such agreements may be susceptible to multiple interpretations. Disputes may arise regarding intellectual property, royalty terms, payment rights or other contractual terms subject to a license or collaboration agreement, including:

- the scope or duration of rights granted under the license or collaboration agreement and other interpretative issues;
- the amounts or timing of royalties, milestones or other payments due under the license or collaboration agreement;
- the sublicensing of patent or other rights under our license or collaboration relationships;
- the diligence obligations under the license or collaboration agreement and what activities satisfy such diligence obligations:
- the inventorship and ownership of inventions and know-how resulting from the joint creation or use of intellectual property by us or our partners; and
- the priority of invention of patented technology.

The resolution of any contract interpretation disagreement that may arise could narrow what the licensor (which may be us in the case of our out-licensed products) or collaborator believes to be the scope of its rights to the relevant intellectual property or technology, or decrease the licensee's or collaborator's financial or other obligations under the relevant agreement, any of which could in turn impact the value of our potential royalties, milestones and other payments and have a material adverse effect on our business, financial condition, results of operations and prospects. If a marketer

were to default on its obligations under a license or collaboration agreement, the licensor's or collaborator's remedy may be limited either to terminating certain licenses or collaborations related to certain countries or to generally terminate the license or collaboration agreement with respect to such country. In such cases, we may not have the right to seek to enforce the rights of the licensor or collaborator (if not us) and we may be required to rely on the resources and willingness of the licensor or collaborator (if not us) to enforce its rights against the applicable licensee or collaborator. In any of these situations, if the expected upfront, milestone, royalty or other payments under the license or collaboration agreements do not materialize, this could result in a significant loss to us and materially adversely affect our business, financial condition and results of operation. At any given time, the Company may be engaged in discussions with its licensees or collaborators regarding the interpretation of the payment and other provisions relating to products as to which we have milestones and potential royalty or other payment rights. Should any such discussions result in a disagreement regarding a particular product that cannot be resolved satisfactorily to us, we may end up being paid less than anticipated on such product should it successfully progress through clinical development and be approved for commercialization. Should our milestone and future potential royalty or other payment interests be reduced or eliminated as a result of any such disagreement, it could have an adverse effect on our business, financial condition, results of operation and prospects.

Our existing collaborations may not continue or be successful, and we may be unable to enter into future arrangements to develop and commercialize our unpartnered assets. Generally, our current collaborative partners have the right to terminate their collaborations at will or under specified circumstances. If any of our collaborative partners breach or terminate their agreements with us or otherwise fail to conduct their collaborative activities successfully (for example, by not making required payments when due, or at all or failing to engage in commercially reasonable efforts to develop products if required), our product development under these agreements will be delayed or terminated.

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 drug product candidates, our potential milestone and royalty providers' development programs and receipt of any potential resulting income may be delayed.

Agreements with other third parties, many of which are material to our business, expose us to numerous risks and have caused us to incur additional liabilities.

Because our licensees, suppliers and contractors are independent third parties, they may be subject to different risks than we are and have significant discretion in, and different criteria for, determining the efforts and resources they will apply related to their agreements with us. If these licensees, suppliers and contractors do not successfully perform the functions for which they are responsible, we may not have the capabilities, resources or rights to do so on our own.

We do not know whether we or our licensees will successfully develop and market any of the products that are or may become the subject of any of our licensing arrangements. In addition, third-party arrangements such as ours also increase uncertainties in the related decision-making processes and resulting progress under the arrangements, as we and our licensees may reach different conclusions, or support different paths forward, based on the same information, particularly when large amounts of technical data are involved.

In addition, 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.

Failure of our potential milestone and royalty providers' product candidates to meet current Good Manufacturing Practice standards may cause delays in regulatory approval and penalties for noncompliance.

Our potential milestone and royalty providers may rely on third party manufacturers and such contract manufacturers are required to produce clinical product candidates under cGMP to meet acceptable standards for use in clinical trials and for commercial sale, as applicable. If such standards change, the ability of contract manufacturers to produce our potential milestone and royalty providers' drug product candidates on the schedule required for clinical trials or to meet commercial requirements may be affected. In addition, contract manufacturers may not perform their obligations under their agreements with our potential milestone and royalty providers or may discontinue their business before the time required by us to successfully produce clinical and commercial supplies of our potential milestone and royalty providers' product candidates.

Contract manufacturers are subject to pre-approval inspections and periodic unannounced inspections by the FDA and corresponding state and foreign authorities to ensure strict compliance with cGMP and other applicable government regulations and corresponding foreign standards. We do not have control over a third-party manufacturer's compliance with these regulations and standards. Any difficulties or delays in contractors' manufacturing and supply of our potential milestone and royalty providers' product candidates or any failure of our potential milestone and royalty providers' contractors to maintain compliance with the applicable regulations and standards could increase costs, reduce revenue, make our licensees postpone or cancel clinical trials, prevent or delay regulatory approval by the FDA and corresponding state and foreign authorities, prevent the import and/or export of our potential milestone and royalty providers' product candidates, or cause any of our potential milestone and royalty providers' products that may be approved for commercial sale to be recalled or withdrawn.

Certain of our technologies are in-licensed from third parties, so our and our licensees' use of them may be restricted and subject to additional risks.

We have licensed technologies from third parties. These technologies include phage display technologies licensed to us in connection with our bacterial cell expression technology licensing program and antibody products. However, our and our licensees and collaborators' use of these technologies is limited by certain contractual provisions in the licenses relating to them, and although we have obtained numerous licenses, intellectual property rights in the area of phage display are particularly complex. If we are unable to maintain our licenses, patents or other intellectual property, we could lose important protections that are material to continuing our operations and for future prospects. Our licensors also may seek to terminate our license, which could cause us and our licensees to lose the right to use the licensed intellectual property and adversely affect our and our licensees' ability to commercialize our technologies, products or services.

Risks Related to Employees, Location, Data Integrity, and Litigation

The loss of, COVID-19 related absence of, or changes in any of our key personnel, could delay or prevent achieving our objectives.

Our business efforts could be adversely affected by the loss or COVID-19 related absence of one or more key members of our staff. We currently do not have key person insurance on any of our employees. In addition, given our minimal employee base, a COVID-19 outbreak in our employee population could significantly hinder our ability to meet our operating objectives. Changes in management may cause disruption in our business, strategic and employee relationships, which may delay or prevent the achievement of our business objectives. During the transition periods, there may be uncertainty among investors, employees and others concerning our future direction and performance.

Because we are a small biopharmaceutical focused company with limited resources, we may not be able to attract and retain qualified personnel.

We had 11 full-time employees and one part-time employee as of May 4, 2023. We may require additional experienced executive, accounting, legal, administrative and other personnel from time to time in the future. We are highly dependent on principal members of our executive team, the loss of whose services may adversely impact the achievement of our objectives. There is intense competition for the services of these personnel, especially in California.

Moreover, we expect the high cost of living in the San Francisco Bay Area, where our headquarters is located, may impair our ability to attract and retain employees in the future. If we do not succeed in attracting new personnel and retaining and motivating existing personnel, our business may suffer, and we may be unable to implement our current initiatives or grow effectively.

We rely and will continue to rely on outsourcing arrangements for many of our activities, including financial reporting and accounting and human resources.

Due to our small number of employees, we rely, and expect to continue to rely, on outsourcing arrangements for a significant portion of our activities, including financial reporting and accounting and human resources, as well as for certain of our functions as a public company. We may have limited control over these third parties, and we cannot guarantee that they will perform their obligations in an effective and timely manner.

Our employees may engage in misconduct or other improper activities, including noncompliance with regulatory standards and requirements and insider trading.

We are exposed to the risk of employee fraud or other misconduct. Misconduct by employees could include intentional failures to comply with applicable regulations, provide accurate information to regulatory authorities, comply with federal and state fraud and abuse laws and regulations, report financial information or data accurately or disclose unauthorized activities to us. In particular, the health care industry is subject to extensive laws and regulations intended to prevent fraud, misconduct, kickbacks, self-dealing and other abusive practices. It is not always possible to identify and deter employee misconduct, and the precautions we take to detect and prevent this activity may not be effective in controlling unknown or unmanaged risks or losses or in protecting us from governmental investigations or other actions or lawsuits stemming from a failure to be in compliance with these laws or regulations. If any such actions are instituted against us, and we are not successful in defending ourselves or asserting our rights, those actions could have a significant impact on our business, including the imposition of significant fines or other sanctions.

Our business and operations would suffer in the event of system failures.

Despite the implementation of security measures, our internal computer systems and those of our current and any future licensees, suppliers, contractors and consultants are vulnerable to damage from cyberattacks, computer viruses, unauthorized access, natural disasters, terrorism, war and telecommunication and electrical failures. We could experience failures in our information systems and computer servers, which could be the result of a cyberattacks and could result in an interruption of our normal business operations and require substantial expenditure of financial and administrative resources to remedy. System failures, accidents or security breaches can cause interruptions in our operations and can result in a material disruption of our development programs and other business operations. To the extent that any disruption or security breach were to result in a loss of, or damage to, our data or applications, or inappropriate disclosure of confidential or proprietary information, we could incur liability.

If our information technology systems or data or those of our partners or contractors are or were compromised by security incidents, our sensitive information could be exposed or stolen and we could experience adverse consequences, including regulatory investigations or actions; litigation; fines and penalties; a disruption of our business operations; reputational harm; loss of revenue or profits; and other adverse business consequences.

Our business is increasingly dependent on critical, complex and interdependent information technology systems, including cloud-based systems, to support business processes as well as internal and external communications. Our computer systems, and those of our partners and contractors, are potentially vulnerable to breakdown, malicious intrusion and computer viruses that may result in the impairment of key business processes. Such disruptions and breaches of security could have a material adverse effect on our business, financial condition and results of operations.

In the ordinary course of our business, we maintain sensitive data on our networks, including our intellectual property and proprietary or confidential business information relating to our business and that of our business partners. The secure maintenance and protection of this information is critical to our business and reputation. Threats to our systems and sensitive data can come from a variety of sources, ranging in sophistication from a person with authorized access to

our network, to an individual hacker, to an organized threat actor organization, to a state-sponsored attack. Cyber threats also may be intentional or accidental. It is often difficult to anticipate or immediately detect cyber incidents and the damage caused by such incidents. Data breaches and any unauthorized access to our systems could compromise our intellectual property and expose sensitive business information. A data security breach could also lead to exposure of personal information of our employees, legacy clinical trial patients, vendors and others, which could expose us to liability under foreign, federal, or state privacy laws. Theft of proprietary information could be used to compete against us and could cause us to incur significant remediation costs, result in product development delays, disrupt key business operations and divert attention of management and key information technology resources. These incidents could also subject us to liability, expose us to significant expense and cause significant harm to our reputation and business.

Authorities worldwide have been warning businesses of increased cybersecurity threats from actors seeking to exploit the COVID-19 pandemic. Moreover, failure to maintain effective internal accounting controls related to data security breaches and cybersecurity in general could impact our ability to produce timely and accurate financial statements and could subject us to regulatory scrutiny. In addition, these breaches and other inappropriate access can be difficult to detect, and any delay in identifying them may lead to increased harm of the type described above. Moreover, the prevalent use of mobile devices that access confidential information increases the risk of data security breaches, which could lead to the loss of confidential information, trade secrets or other intellectual property.

While we have implemented security measures that are intended to protect our data security and information technology systems, such measures may not prevent all such cyber incidents. Further, we cannot be sure that our insurance coverage will be adequate or sufficient to protect us from or to mitigate liabilities arising out of our privacy and security practices, that such coverage will continue to be available on commercially reasonable terms or at all, or that such coverage will pay future claims.

Compliance with stringent and changing obligations related to data privacy and security protection is a rigorous and time-intensive process. Our actual or perceived failure to comply with any privacy or data security obligations could lead to regulatory investigations or actions; litigation; fines and penalties; a disruption of our business operations; reputational harm; loss of revenue or profits; loss of customers or sales; and other adverse business consequences.

Many states, countries and jurisdictions strictly regulate data privacy and protection and may impose significant penalties for failure to comply with these requirements. For example, in the U.S., the CCPA became effective on January 1, 2020. The CCPA establishes a privacy framework for covered businesses, including an expansive definition of personal information and data privacy rights for California residents and the CPRA which became effective on January 1, 2023, which expands upon the CCPA. The CCPA and CPRA give California residents expanded privacy rights, including the right to request correction, access and deletion of their personal information, the right to opt out of certain personal information sharing, and the right to receive detailed information about how their information is processed. The CCPA and CPRA include a framework with potentially severe statutory damages and private rights of action and will likely impact our business activities, along with increasing our compliance costs and potential liability. If we fail to comply with the CCPA and CPRA, we may face significant fines and penalties that could adversely affect our business, financial condition and results of operations. Other states are beginning to pass similar laws.

Compliance with laws and regulations concerning privacy, cybersecurity, data governance and data protection is a rigorous and time-intensive process, and we may be required to put in place additional mechanisms ensuring compliance with the laws and regulations and incur substantial expenditures. If we fail to comply with any such laws or regulations, we may face significant fines and penalties that could adversely affect our business, financial condition and results of operations. Further, data incidents experienced by us, our partners or collaborators could lead to significant fines, required corrective action, the loss of trade secrets or other intellectual property, public disclosure of sensitive clinical or commercial data, and the exposure of personally identifiable information (including sensitive personal information) of our employees, partners, and others. A data security breach or privacy violation that leads to disclosure or modification of, or prevents access to, patient information, including personally identifiable information or protected health information, could result in fines, increased costs or loss of revenue as a result of:

- harm to our reputation;

- fines imposed on us by regulatory authorities;
- additional compliance obligations under federal, state or foreign laws;
- requirements for mandatory corrective action to be taken by us; and
- requirements to verify the correctness of database contents and otherwise subject us to liability under laws and regulations that protect personal data.

In addition, cyber incidents can be difficult to detect, and any delay in identifying them may lead to increased harm of the type described above. Moreover, the prevalent use of mobile devices that access confidential information increases the risk of data security breaches. While we have implemented security measures to protect our data security and information technology systems, such measures may not prevent such events. Lastly, we cannot guarantee that we are in compliance with all applicable data protection laws and regulations as they are enforced now or as they evolve.

Risks Related to Government Regulation

Even after FDA approval, a product may be subject to additional testing or significant marketing restrictions, its approval may be withdrawn, or it may be removed voluntarily from the market.

Even if our potential royalty providers receive regulatory approval for our product candidates, they will be subject to ongoing regulatory oversight and review by the FDA and other regulatory entities. The FDA, the EMA, or another regulatory agency may impose, as a condition of the approval, ongoing requirements for post-approval studies or post-approval obligations, including additional research and development and clinical trials, and the FDA, EMA or other regulatory agency subsequently may withdraw approval based on these additional trials or obligations.

Even for approved products, the FDA, EMA or other regulatory agency may impose significant restrictions on the indicated uses, conditions for use, labeling, advertising, promotion, marketing and production of such product. In addition, the labeling, packaging, adverse event reporting, storage, advertising, promotion and record-keeping for such products are subject to extensive regulatory requirements.

Furthermore, marketing approval of a product may be withdrawn by the FDA, the EMA or another regulatory agency or such product may be withdrawn voluntarily by our potential royalty providers based, for example, on subsequently arising safety concerns. The FDA, EMA and other agencies also may impose various civil or criminal sanctions for failure to comply with regulatory requirements, including withdrawal of product approval.

Healthcare reform measures and other statutory or regulatory changes could adversely affect our business.

The United States and some foreign jurisdictions have enacted or are considering a number of legislative and regulatory proposals to change the healthcare system in ways that could affect our potential royalty providers' ability to sell products in which we have ownership or and royalty interests, if approved, profitably. Among policy makers and payors in the United States and elsewhere, there is significant interest in promoting changes in healthcare systems with the stated goals of containing healthcare costs, improving quality and expanding access. In the United States, the pharmaceutical industry has been a particular focus of these efforts and has been significantly affected by major legislative initiatives. For example, in March 2010, the Patient Protection and Affordable Care Act, as amended by the Health Care and Education Reconciliation Act, or collectively the ACA, was enacted, which, among other things, substantially changed the way healthcare is financed by both governmental and private payors.

There have been judicial, Congressional and executive branch challenges to the ACA. As a result, there have been delays in the implementation of, and action taken to repeal or replace, certain aspects of the ACA. For example, on June 17, 2021, the U.S. Supreme Court dismissed a challenge on procedural grounds that argued the ACA is unconstitutional in its entirety because the "individual mandate" was repealed by Congress. In addition, there have been a number of health reform initiatives by the Biden administration that have impacted the ACA. On August 16, 2022,

President Biden signed the Inflation Reduction Act of 2022, or the IRA, into law, which among other things, extends enhanced subsidies for individuals purchasing health insurance coverage in ACA marketplaces through plan year 2025. The IRA also eliminates the "donut hole" under the Medicare Part D program beginning in 2025 by significantly lowering the beneficiary maximum out-of-pocket cost and through a newly established manufacturer discount program. It is possible that the ACA will be subject to judicial or Congressional challenges in the future. It is unclear how other such challenges, and the healthcare reform measures of the Biden administration will impact the ACA and our business.

Other legislative changes have also been proposed and adopted since the ACA was enacted. For example, the Budget Control Act of 2011 resulted in aggregate reductions in Medicare payments to providers of up to two percent per fiscal year, starting in 2013 and, due to subsequent legislative amendments to the statute, will remain in effect until 2032 unless additional Congressional action is taken. In addition, the American Taxpayer Relief Act of 2012, among other things, reduced Medicare payments to several types of providers and increased the statute of limitations period for the government to recover overpayments to providers from three to five years. Such laws, and others that may affect our business that have been recently enacted or may in the future be enacted, may result in additional reductions in Medicare and other healthcare funding.

Also, there has been heightened governmental scrutiny recently in the U.S. over pharmaceutical pricing practices in light of the rising cost of prescription drugs and biologics. Such scrutiny has resulted in several recent Congressional inquiries and proposed and enacted federal and state legislation designed to, among other things, bring more transparency to product pricing, review the relationship between pricing and manufacturer patient programs, and reform government program reimbursement methodologies for products. For example, in July 2021, the Biden administration released an executive order, "Promoting Competition in the American Economy," with multiple provisions aimed at prescription drugs. In response to Biden's executive order, on September 9, 2021, the Department of Health and Human Services, or HHS, released a Comprehensive Plan for Addressing High Drug Prices that outlines principles for drug pricing reform and sets out a variety of potential legislative policies that Congress could pursue to advance these principles. In addition, the IRA, among other things, (i) directs the Secretary of HHS to negotiate the price of certain high-expenditure, single-source drugs and biologics covered under Medicare Part B and Medicare Part D, and subjects drug manufacturers to civil monetary penalties and a potential excise tax by offering a price that is not equal to or less than the negotiated "maximum fair price" under the law, and (ii) imposes rebates under Medicare Part B and Medicare Part D to penalize price increases that outpace inflation. The IRA permits HHS to implement many of these provisions through guidance, as opposed to regulation, for the initial years. HHS has and will continue to issue and update guidance as these programs are implemented. These provisions will take effect progressively starting in fiscal year 2023, although they may be subject to legal challenges. It is currently unclear how the IRA will be implemented but it is likely to have a significant impact on the pharmaceutical industry. Further, in response to the Biden administration's October 2022 executive order, on February 14, 2023, HHS released a report outlining three new models for testing by the Center for Medicare and Medicaid Innovation which will be evaluated on their ability to lower the cost of drugs, promote accessibility, and improve quality of care. It is unclear whether the models will be utilized in any health reform measures in the future. In addition, beginning in 2023, Centers for Medicare & Medicaid Services, or CMS, will require manufacturers to refund CMS for certain discarded amounts of single-dose container and single-use package drugs. At the state level, legislatures have increasingly passed legislation and implemented regulations designed to control pharmaceutical and biological product pricing, including price or patient reimbursement constraints, discounts, and restrictions on certain product access. In some cases, such legislation and regulations have been designed to encourage importation from other countries and bulk purchasing.

An expansion in the government's role in the U.S. healthcare industry may cause general downward pressure on the prices of prescription drug products, lower reimbursements for providers, and reduced product utilization, any of which could adversely affect our business and results of operations. We expect that additional healthcare reform measures will be adopted in the future. We cannot know what form any such new legislation may take or the market's perception of how such legislation would affect us. Any reduction in reimbursement from government programs may result in a similar reduction in payments from private payors. The implementation of cost containment measures or other healthcare reforms may prevent our potential royalty providers from being able to generate revenue, attain profitability, develop, or commercialize our current product candidates in which we have an ownership or royalty interest.

We and our potential milestone and royalty providers are subject to various state and federal healthcare-related laws and regulations that if violated may impact the commercialization of our product candidates for which we possess milestone or royalty rights or could subject us to significant fines and penalties.

Our operations may be directly or indirectly subject to various state and federal healthcare laws, including the federal Anti-Kickback Statute, the federal False Claims Act and state and federal data privacy and security laws. These laws may impact, among other things, the commercial operations for any of our product candidates that may be approved for commercial sale.

The federal Anti-Kickback Statute prohibits, among other things, persons and entities from knowingly and willfully soliciting, offering, receiving or providing any remuneration, directly or indirectly, in cash or in kind, in exchange for or to induce either the referral of an individual for, or the furnishing or arranging for the purchase, lease, or order of a good or service for which payment may be made under a federal healthcare program, such as the Medicare and Medicaid programs. The ACA modified the federal Anti-Kickback Statute's intent requirement so that a person or entity no longer needs to have actual knowledge of the statute or the specific intent to violate it to have committed a violation. In addition, several courts have interpreted the statute's intent requirement to mean that if any one purpose of an arrangement involving remuneration is to induce referrals of federal healthcare covered business, the statute has been violated. The Anti-Kickback Statute is broad and prohibits many arrangements and practices that are lawful in businesses outside of the healthcare industry.

The federal false claims laws, including the False Claims Act, and civil monetary penalties laws prohibit, among other things, persons and entities from knowingly filing, or causing to be filed, a false claim to, or the knowing use of false statements to obtain payment from the federal government. Certain suits filed under the False Claims Act, known as "qui tam" actions, can be brought by any individual on behalf of the government and such individual, commonly known as a "whistleblower", or "relator" may share in any amounts paid by the entity to the government in fines or settlement. The filing of qui tam actions has caused a number of pharmaceutical, medical device and other healthcare companies to have to defend and/or settle a False Claims Act action.

The Health Insurance Portability and Accountability Act of 1996, or HIPAA created new federal criminal statutes that prohibit, among other things, executing a scheme to defraud any healthcare benefit program, including a private payor, or falsifying, concealing or covering up a material fact or making any materially false, fictitious or fraudulent statement in connection with the delivery of, or payment for, health care benefits, items or services.

HIPAA, as amended by the Health Information Technology and Clinical Health Act, and its implementing regulations, also imposes certain requirements relating to the privacy, security and transmission of individually identifiable health information by entities subject to the law, such as certain healthcare providers, health plans, and healthcare clearinghouses as well as their respective business associates and their subcontractors that perform certain functions or activities that involve the use or disclosure of protected health information on their behalf.

Many states also have adopted laws similar to each of the federal laws described above, some of which apply to healthcare items or services reimbursed by any source, not only federal healthcare programs, such as the Medicare and Medicaid programs. In addition, some states have laws that require pharmaceutical companies to comply with the pharmaceutical industry's voluntary compliance guidelines and the applicable compliance guidance promulgated by the federal government. Additionally, certain state and local laws require the registration of pharmaceutical sales representatives, restrict payments that may be made to healthcare providers and other potential referral sources, and require manufacturers to report information related to payments and other transfers of value to physicians and other healthcare providers. Further, some states have laws governing the privacy and security of health information in certain circumstances, many of which are not preempted by HIPAA and differ from each other in significant ways and may not have the same effect, thus complicating compliance efforts.

Because of the breadth of these laws, and the narrowness of the statutory exceptions and regulatory safe harbors available, it is possible that some of our or our potential milestone and royalty providers' business activities could be subject to challenge under one or more of such laws.

If we or our potential milestone and royalty providers are found to be in violation of any of the laws and regulations described above or other applicable state and federal healthcare laws, we or our potential milestone and royalty providers may be subject to penalties, including significant civil, criminal, and administrative penalties, damages, fines, disgorgement, imprisonment, integrity oversight and reporting obligations, reputational harm, exclusion from government healthcare reimbursement programs and the curtailment or restructuring of our or our potential milestone and royalty providers' operations, any of which could have a material adverse effect on our business and results of operations. In addition, we and our licensees may be subject to certain analogous foreign laws and violations of such laws could result in significant penalties.

We are subject to the U.S. Foreign Corrupt Practices Act and other anti-corruption laws, as well as export control laws, import and customs laws, trade and economic sanctions laws and other laws governing our operations.

We are subject to the U.S. Foreign Corrupt Practices Act and other anti-corruption laws, as well as export control laws, import and customs laws, trade and economic sanctions laws and other laws governing our operations. Our operations are subject to anti-corruption laws including the FCPA, the U.S. domestic bribery statute contained in 18 U.S.C. §201, the U.S. Travel Act, and other anti-corruption laws that apply in countries where we do business. The FCPA and these other laws generally prohibit us and our employees and intermediaries from authorizing, promising, offering, or providing, directly or indirectly, improper or prohibited payments, or anything else of value, to government officials or other persons to obtain or retain business or gain some other business advantage. We and the royalty agreement counterparties and licensees who generate our royalties operate in a number of jurisdictions that pose a high risk of potential FCPA violations, and we participate in collaborations and relationships with third parties whose corrupt or illegal activities could potentially subject us to liability under the FCPA or local anti-corruption laws, even if we do not explicitly authorize or have actual knowledge of such activities. In addition, we cannot predict the nature, scope or effect of future regulatory requirements to which our international operations might be subject or the manner in which existing laws might be administered or interpreted. We are also subject to other laws and regulations governing our international operations, including regulations administered by the governments of the United States and authorities in the European Union, including applicable export control regulations, economic sanctions and embargoes on certain countries and persons, anti-money laundering laws, import and customs requirements and currency exchange regulations, collectively referred to as the Trade Control laws. There is no assurance that we will be completely effective in ensuring our compliance with all applicable anti-corruption laws, including the FCPA or other legal requirements, including Trade Control laws. If we are not in compliance with the FCPA and other anticorruption laws or Trade Control laws, we may be subject to criminal and civil penalties, disgorgement and other sanctions and remedial measures, and legal expenses, which could have an adverse impact on our business, financial condition, results of operations and liquidity. Likewise, any investigation of any potential violations of the FCPA, other anti-corruption laws or Trade Control laws by the United States or other authorities could also have an adverse impact on our reputation, our business, financial condition and results of operations. Efforts to ensure that our business arrangements with third parties will comply with applicable healthcare laws and regulations will involve substantial costs. Because of the breadth of these laws and the narrowness of the statutory exceptions and safe harbors available, it is possible that some of our business activities or our business arrangements with third parties could be subject to challenge under one or more of such laws. It is possible that governmental authorities will conclude that our business practices or the business practices of the royalty agreement counterparties and licensees who generate our royalties may not comply with current or future statutes, regulations or case law involving applicable fraud and abuse or other healthcare laws and regulations. If our operations or the operations of the royalty agreement counterparties and licensees who generate our royalties are found to be in violation of any of these laws or any other governmental regulations, we or the royalty agreement counterparties and licensees who generate our may be subject to significant criminal, civil and administrative sanctions, including monetary penalties, damages, fines, disgorgement, individual imprisonment and exclusion from participation in government-funded healthcare programs, such as Medicare and Medicaid, additional reporting requirements and oversight if we or the royalty agreement counterparties and licensees who generate our royalties become subject to a corporate integrity agreement or similar agreement to resolve allegations of non-compliance with these laws, reputational harm, and we or marketers of products that generate our royalties may be required to curtail or restructure operations, any of which could adversely affect our ability to operate our business and our results of operations. The risk of our being found in violation of these laws is increased by the fact that many of them have not been fully interpreted by the regulatory authorities or the courts, and their provisions are open to a variety of interpretations. Any action against us for violation of these laws, even if we successfully defend against it, could cause us to incur significant legal expenses and divert our management's attention from the operation of our business. The shifting compliance environment and the need

to build and maintain robust and expandable systems to comply with multiple jurisdictions with different compliance and/or reporting requirements increases the possibility that a healthcare company may run afoul of one or more of the requirements.

As we or our potential milestone and royalty providers do more business internationally, we will be subject to additional political, economic and regulatory uncertainties.

We or our potential milestone and royalty providers may not be able to operate successfully in any foreign market. We believe that because the pharmaceutical industry is global in nature, international activities will be a significant part of future business activities and when and if we or our potential milestone and royalty providers are able to generate income, a substantial portion of that income will be derived from product sales and other activities outside the United States. Foreign regulatory agencies often establish standards different from those in the United States, and an inability to obtain foreign regulatory approvals on a timely basis could put us at a competitive disadvantage or make it uneconomical to proceed with a product or product candidate's development. International sales may be limited or disrupted by many factors, including without limitation:

- imposition of government controls;
- export license requirements;
- political or economic instability;
- trade restrictions;
- changes in tariffs;
- restrictions on repatriating profits;
- exchange rate fluctuations; and
- withholding and other taxation.

General Risk Factors

Our share price may be volatile, and there may not be an active trading market for our common stock, Series A Preferred Stock or our Series B Preferred Stock.

There can be no assurance that the market price of our common stock will not decline below its present market price. Additionally, there may not be an active trading market for our common stock, Series A Preferred Stock or depositary shares representing interests in our Series B Preferred Stock. The market prices of biotechnology companies have been and are likely to continue to be highly volatile. Fluctuations in our operating results and general market conditions for biotechnology stocks could have a significant impact on the volatility of our stock price or the existence of an active trading market for our common stock, Series A Preferred Stock or depositary shares representing interests in our Series B Preferred Stock. We have experienced significant volatility in the price of our common stock. From January 1, 2023, through May 4, 2023, the share price of our common stock has ranged from a high of $23.51 to a low of $17.50. From January 1, 2023, through May 4, 2023, the share price of our Series A Preferred Stock has ranged from a high of $25.48 to a low of $23.55. From January 1, 2023, through May 4, 2023, the share price of our Series B Preferred Stock has ranged from a high of $25.37 to a low of $23.00. Additionally, we have two significant holders of our common stock that could affect the liquidity of our stock and have a significant negative impact on our stock price if the holders were to quickly sell their ownership positions.

Our results of operations and liquidity needs could be materially negatively affected by market fluctuations or an economic downturn.

Our results of operations could be materially negatively affected by economic conditions generally, both in the United States and elsewhere around the world. Concerns over inflation, energy costs, geopolitical issues, the availability and cost of credit, and the U.S. financial markets have in the past contributed to, and may continue in the future contribute to, increased volatility and diminished expectations for the economy and the markets. Domestic and international equity markets periodically experience heightened volatility and turmoil. These events may have an adverse effect on us. In the event of a market downturn, our results of operations could be adversely affected by those factors in many ways, including making it more difficult for us to raise funds if necessary, and our stock price may decline.

We have issued equity securities and may issue additional equity securities from time to time, that materially and adversely affect the price of our common stock, including our Series X preferred stock, Series A Preferred Stock and depositary shares representing interests in our Series B Preferred Stock.

We expect significant additional capital will be needed in the future to continue our planned operations. To the extent we raise additional capital by issuing equity securities, our stockholders may experience substantial dilution. We may sell common stock, convertible securities or other equity securities in one or more transactions at prices and in such a manner as we determine from time to time, including pursuant to our 2018 Common Stock ATM Agreement, as amended, and 2021 Series B Preferred Stock ATM Agreement. If we sell common stock, convertible securities or other equity securities in more than one transaction, investors may be materially diluted by subsequent sales. These sales may also result in material dilution to our existing stockholders, and new investors could gain rights superior to our existing stockholders. If we issue additional equity securities, the price of our existing securities may be materially and adversely affected.

As of March 31, 2023, there were 5,003 shares of Series X preferred stock issued and outstanding. Each share of Series X preferred stock is convertible into 1,000 shares of registered common stock. The total number of shares of common stock issuable upon conversion of all issued Series X preferred stock would be 5,003,000 shares. Each share is convertible at the option of the holder at any time, provided that the holder will be prohibited from converting into common stock if, as a result of such conversion, the holder, together with its affiliates, would beneficially own a number of shares above a conversion blocker, which was initially set at 19.99% of our total common stock then issued and outstanding immediately following the conversion of such shares. A holder of Series X preferred shares may elect to increase or decrease the conversion blocker above or below 19.99% on 61 days' notice, provided the conversion blocker does not exceed the limits under Nasdaq Marketplace Rule 5635(b), to the extent then applicable. If holders of our Series X convertible preferred stock elect to convert their preferred shares into common stock such conversion would dilute our currently outstanding common stock both in number and in earnings per share. BVF (and its affiliates), as current holders of all shares of our Series X preferred stock, would, if they converted all such shares to common stock, obtain majority voting control of the Company. As of March 31, 2023, BVF owned approximately 31.7% of our total outstanding shares of common stock, and if all of the Series X convertible preferred shares were converted, BVF would own 52.5% of our total outstanding shares of common stock. Additionally, as of March 31, 2023, we had issued and outstanding 984,000 shares of Series A Preferred Stock and 1,600,000 depositary shares, each representing a 1/1000th fractional interest in a share of our Series B Preferred Stock.

In addition, funding from collaboration partners and others has in the past and may in the future involve issuance by us of our common stock. We cannot be certain how the purchase price of such shares, the relevant market price or premium, if any, will be determined or when such determinations will be made.

Any issuance by us of equity securities, whether through an underwritten public offering, an at the market offering, a private placement, in connection with a collaboration or otherwise could result in dilution in the value of our issued and outstanding shares, and a decrease in the trading price of our securities.

We may sell additional equity or debt securities to fund our operations, which may result in dilution to our stockholders and impose restrictions on our business.

In order to raise additional funds to support our operations, we may sell additional equity or convertible debt securities, which would result in dilution to our stockholders and/or debt securities which may impose restrictive covenants that would adversely impact our business. The sale of additional equity or convertible debt securities could result in additional dilution or result in other rights or obligations that adversely affect our stockholders. For example, holders of shares of our Series A Preferred Stock are entitled to receive, when and as declared by our Board of Directors, out of funds legally available for the payment of dividends, cumulative cash dividends at the rate of 8.625% of the $25.00 liquidation preference per year (equivalent to $2.15625 per year). Additionally, holders of depositary shares representing interests in our Series B Preferred Stock are entitled to receive, when and as declared by our Board of Directors, out of funds legally available for the payment of dividends, 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 (equivalent to $2,093.75 per year per share or $2.09375 per year per depositary share). The incurrence of indebtedness would result in increased fixed payment obligations and could also result in certain restrictive covenants, such as limitations on our ability to incur additional debt, limitations on our ability to acquire, sell or license intellectual property rights and other operating restrictions that could adversely impact our ability to conduct our business.

Our organizational documents contain provisions that may prevent transactions that could be beneficial to our stockholders and may insulate our management from removal.

Our charter and by-laws:

- require certain procedures to be followed and time periods to be met for any stockholder to propose matters to be considered at annual meetings of stockholders, including nominating directors for election at those meetings; and

- authorize our Board of Directors to issue up to 1,000,000 shares of preferred stock without stockholder approval and to set the rights, preferences and other designations, including voting rights, of those shares as the Board of Directors may determine.

In addition, we are subject to the provisions of Section 203 of the Delaware General Corporation Law (the "DGCL"), that may prohibit large stockholders, in particular those owning 15% or more of our outstanding common stock, from merging or combining with us.

These provisions of our organizational documents and the DGCL, alone or in combination with each other, may discourage transactions involving actual or potential changes of control, including transactions that otherwise could involve payment of a premium over prevailing market prices to holders of common stock, could limit the ability of stockholders to approve transactions that they may deem to be in their best interests, and could make it considerably more difficult for a potential acquirer to replace management.

As a public company in the United States, we are subject to the Sarbanes-Oxley Act. We have determined our disclosure controls and procedures and our internal control over financial reporting are effective. We can provide no assurance that we will, at all times, in the future be able to report that our disclosure controls and internal controls over financial reporting are effective.

Companies that file reports with the SEC, including us, are subject to the requirements of Section 404 of the SOX. Section 404 requires management to establish and maintain a system of internal control over financial reporting, and annual reports on Form 10-K filed under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), must contain a report from management assessing the effectiveness of our internal control over financial reporting. Ensuring we have adequate internal financial and accounting controls and procedures in place to produce accurate financial statements on a timely basis is a time-consuming effort that needs to be re-evaluated frequently. Failure on our part to have effective internal financial and accounting controls would cause our financial reporting to be unreliable, could have a material

adverse effect on our business, operating results, and financial condition, and could cause the trading price of our common stock to fall.

Our ability to use our NOL carry-forwards and certain other tax attributes to offset taxable income or taxes may be limited.

Our net operating loss, or NOL, carryforwards could expire unused and/or be unavailable to offset future income tax liabilities. As of December 31, 2022, we had U.S. federal NOL carryforwards of $108.8 million, of which $13.6 million will begin to expire in 2036. Under the federal income tax law, federal NOLs incurred in taxable years beginning after December 31, 2017 may be carried forward indefinitely, but the deductibility of such federal NOLs is limited to 80% of current year taxable income. It is uncertain if and to what extent various states will conform to the federal tax law. In addition, Section 382 of the U.S. Internal Revenue Code of 1986, as amended (or, the Code), and corresponding provisions of state law, generally limit the ability of a corporation that undergoes an "ownership change" to utilize its NOL carry-forwards and certain other tax attributes against any taxable income in taxable periods after the ownership change. An "ownership change" is generally defined as a greater than 50% change, by value, in a corporation's equity ownership over a three-year period.

Based on an analysis under Section 382 of Code, we experienced an ownership change in February 2017, that significantly limits the availability of our tax attributes to offset future income. To the extent that we do not utilize our carry forwards within the applicable statutory carry-forward periods, either because of Section 382 limitations or the lack of sufficient taxable income, the carry-forwards will also expire unused.

Changes in tax laws or regulations that are applied adversely to us may have a material adverse effect on our business, cash flow, financial condition, or results of operations.

New tax laws, statutes, rules, regulations, or ordinances could be enacted at any time. For instance, the recently enacted Inflation Reduction Act imposes, among other rules, a 15% minimum tax on the book income of certain large corporations and a 1% excise tax on certain corporate stock repurchases. Further, existing tax laws, statutes, rules, regulations, or ordinances could be interpreted differently, changed, repealed, or modified at any time. Any such enactment, interpretation, change, repeal, or modification could adversely affect us, possibly with retroactive effect. In particular, changes in corporate tax rates, the realization of our net deferred tax assets, the taxation of foreign earnings, and the deductibility of expenses under the Tax Act, as amended by the CARES Act or any future tax reform legislation, could have a material impact on the value of our deferred tax assets, result in significant one-time charges, and increase our future tax expenses.

Stockholder and private lawsuits, and potential similar or related lawsuits, could result in substantial damages, divert management's time and attention from our business, and have a material adverse effect on our business, financial condition and results of operations.

Securities-related class action and stockholder derivative litigation has often been brought against companies, including many biotechnology companies, which experience volatility in the market price of their securities. This risk is especially relevant for us because biotechnology and biopharmaceutical companies often experience significant stock price volatility in connection with their product development programs.

It is possible that suits will be filed, or allegations received from stockholders, naming us and/or our officers and directors as defendants. These potential lawsuits are subject to inherent uncertainties, and the actual defense and disposition costs will depend upon many unknown factors. The outcome of these lawsuits is uncertain. We could be forced to expend significant time and resources in the defense of these suits, and we may not prevail. In addition, we may incur substantial legal fees and costs in connection with these lawsuits. Although we carry insurance to protect us from such claims, our insurance may not provide adequate coverage. It is possible that we could, in the future, incur judgments or enter into settlements of claims for monetary damages. A decision adverse to our interests on these actions could result in the payment of substantial damages, or possibly fines, and could have a material adverse effect on our cash flow, results of operations and financial position.

Monitoring, initiating and defending against legal actions, including any currently pending litigation, are time-consuming for our management, are likely to be expensive and may detract from our ability to fully focus our internal resources on our business activities. The outcome of litigation is always uncertain, and in some cases could include judgments against us that require us to pay damages, enjoin us from certain activities, or otherwise affect our legal or contractual rights, which could have a significant adverse effect on our business. In addition, the inherent uncertainty of any future litigation could lead to increased volatility in our stock price and a decrease in the value of an investment in our common stock.

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

None.

ITEM 3. DEFAULTS UPON SENIOR SECURITIES

None.

ITEM 4. MINE SAFETY DISCLOSURES

Not applicable.

ITEM 5. OTHER INFORMATION

None.

ITEM 6. EXHIBITS

Exhibit Number	Exhibit Description	Incorporation By Reference			
		Form	SEC File No.	Exhibit	Filing Date
3.1	Certificate of Incorporation of XOMA Corporation	8-K	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 Preferences, Rights and Limitations of 8.625% Series A Cumulative Perpetual Preferred Stock	8-K	000-14710	3.1	12/11/2020
3.7	Certificate of Designation of Preferences, Rights and Limitations of 8.375% Series B Cumulative Perpetual Preferred Stock	8-K	000-39801	3.1	04/08/2021
3.8	Certificate of Correction of the Certificate of Designation of 8.375% Series B Cumulative Perpetual Preferred Stock dated June 9, 2021	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-K	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	000-39801	4.1	04/08/2021
4.4	Form of Warrant (May 2018 Warrant)	10-Q	000-14710	4.6	08/07/2018
4.5	Form of Warrant (March 2019 Warrant)	10-Q	000-14710	4.7	05/06/2019
10.1*	Officer Employment Agreement, dated January 3, 2023, between XOMA Corporation and Owen Hughes	10-K	001-39801	10.15	03/09/2023
10.2*	Officer Employment Agreement, dated January 3, 2023, between XOMA Corporation and Bradley Sitko	10-K	001-39801	10.16	03/09/2023
10.3*	Inducement Stock Option Agreement, by and between XOMA Corporation and Owen Hughes	S-8	333-269459	99.2	01/30/2023
10.4*	Inducement Stock Option Agreement, by and between XOMA Corporation and Owen Hughes	S-8	333-269459	99.3	01/30/2023

Exhibit Number	Exhibit Description	Incorporation By Reference			
		Form	SEC File No.	Exhibit	Filing Date
10.5*	Inducement Stock Option Agreement, by and between XOMA Corporation and Bradley Sitko	S-8	333-269459	99.4	01/30/2023
10.6*	Inducement Stock Option Agreement, by and between XOMA Corporation and Bradley Sitko	S-8	333-269459	99.5	01/30/2023
10.7+#	Payment Interest Purchase Agreement, dated March 29, 2023, by and between Aptevo Therapeutics Inc. and XOMA (US) LLC				
31.1+	Certification of Executive Chairman, as required by Rule 13a-14(a) or Rule 15d-14(a)				
31.2+	Certification of Chief Financial Officer, as required by Rule 13a-14(a) or Rule 15d-14(a)				
32.1+	Certification of Executive Chairman and Chief Financial Officer, as required by Rule 13a-14(b) or Rule 15d-14(b) and Section 1350 of Chapter 63 of Title 18 of the United States Code (18 U.S.C. §1350)(1)				
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

* Indicates a management contract or compensation plan or arrangement.

\# 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) 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 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 the 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, 2023 By: /s/ OWEN HUGHES
Owen Hughes
Executive Chairman of the Board of Directors and Interim Chief Executive Officer

Date: May 9, 2023 By: /s/ THOMAS BURNS
Thomas Burns
Senior Vice President, Finance and Chief Financial Officer
(Principal Financial and Principal Accounting Officer)

Executed Version

Exhibit 10.7

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

APTEVO THERAPEUTICS INC.

AND

XOMA (US) LLC

DATED AS OF MARCH 29, 2023

Page

ARTICLE I DEFINITIONS; INTERPRETATION 1
Section 1.1 Definitions 1
Section 1.2 Certain Interpretations 6

ARTICLE II PURCHASE AND SALE OF PURCHASED RECEIVABLES 7
Section 2.1 Purchase and Sale of Purchased Receivables 7
Section 2.2 Post-Closing Trigger Payment 7
Section 2.3 Excluded Assets 8
Section 2.4 No Obligations Transferred 8
Section 2.5 True Sale 8
Section 2.6 Payments 9

ARTICLE III CLOSING; DELIVERABLES 9
Section 3.1 Closing 9
Section 3.2 Payment of Purchase Price 9
Section 3.3 Closing Certificates 9
Section 3.4 Bill of Sale and Assignment 9
Section 3.5 Tax Forms 9
Section 3.6 Medexus Consent 9
Section 3.7 Legal Opinion 10
Section 3.8 MidCap Release 10
Section 3.9 Lien Searches 10
Section 3.10 Data Room 10

ARTICLE IV SELLER'S REPRESENTATIONS AND WARRANTIES 10
Section 4.1 Organization 10
Section 4.2 Authorization 11
Section 4.3 Enforceability 11
Section 4.4 Absence of Conflicts 11
Section 4.5 Consents 11
Section 4.6 Litigation 11
Section 4.7 Compliance with Laws 11
Section 4.8 Brokers' Fees 11
Section 4.9 Sale Agreement 12
Section 4.10 Title to Purchased Receivables 14
Section 4.11 UCC Matters 14
Section 4.12 Taxes 14
Section 4.13 Solvency 14
Section 4.14 Disclosure 14

ARTICLE V BUYER'S REPRESENTATIONS AND WARRANTIES 15
Section 5.1 Organization 15
Section 5.2 Authorization 15

Section 5.3 Enforceability 15
Section 5.4 Absence of Conflicts 15
Section 5.5 Consents 15
Section 5.6 Litigation 15
Section 5.7 Brokers' Fees 15
Section 5.8 Financing 16
Section 5.9 Tax Status 16

ARTICLE VI GENERAL COVENANTS 16
Section 6.1 Confidentiality 16
Section 6.2 Taxes 18
Section 6.3 Further Actions 18
Section 6.4 Distribution of Purchased Receivables 19
Section 6.5 Medexus Instructions 19
Section 6.6 Escrow Agreement 19
Section 6.7 Medexus Instruction Letter 19

ARTICLE VII COVENANTS RELATING TO THE SALE AGREEMENT 19
Section 7.1 Performance of Sale Agreement 19
Section 7.2 Misdirected Payments; Setoffs 20
Section 7.3 Medexus Reports; Notices; Correspondence 20
Section 7.4 Audits of Medexus 21
Section 7.5 Amendment of Sale Agreement 22
Section 7.6 Enforcement of Sale Agreement 22
Section 7.7 Preservation of Rights; Assignments 23

ARTICLE VIII INDEMNIFICATION 23
Section 8.1 Obligation of Parties to Indemnify 23
Section 8.2 Procedures Relating to Indemnification for Third Party Claims 23
Section 8.3 Procedures Relating to Indemnification for Other Claims 25
Section 8.4 Limitations on Indemnification 25
Section 8.5 Survival of Representations and Warranties 25
Section 8.6 No Implied Representations and Warranties 25
Section 8.7 Exclusive Remedy 26
Section 8.8 Limitations on Damages 26

ARTICLE IX MISCELLANEOUS 26
Section 9.1 Headings 26
Section 9.2 Notices 27
Section 9.3 No Personal Liability 27
Section 9.4 Expenses 28
Section 9.5 Assignment 28
Section 9.6 Amendment and Waiver 28
Section 9.7 Entire Agreement 28
Section 9.8 Independent Contractors 29
Section 9.9 No Third Party Beneficiaries 29
Section 9.10 Governing Law 29

Section 9.11 Jurisdiction; Venue; Service Of Process 29
Section 9.12 Severability 29
Section 9.13 Counterparts 30
Section 9.14 Termination of Agreement 30

List of Exhibits

A Form of Bill of Sale and Assignment
B Disclosure Schedule
C Form of Medexus Instruction Letter
D Form of Legal Opinion
E Sale Agreement

PAYMENT INTEREST PURCHASE AGREEMENT

This Payment Interest Purchase Agreement is dated as of March 29, 2023 (this "Agreement"), by and between **APTEVO THERAPEUTICS 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 LLC Purchase Agreement, dated as of February 28, 2020 (the "Sale Agreement"), between Seller and Medexus Pharma, Inc. ("Medexus"), pursuant to which, among other things, (i) Seller sold to Medexus all of the issued and outstanding limited liability company interests of Aptevo BioTherapeutics LLC, a Delaware limited liability company, and (ii) Seller is entitled to receive from Medexus, among other things, the Deferred Payments and the Milestone Payments, 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 (as defined below), 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:

"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.

"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 is a "United States person" as defined in Section 7701(a)(30) of the Code and is exempt from United States federal withholding tax and backup withholding tax with respect to all payments under this Agreement to such party.

"Bill of Sale and Assignment" means that certain bill of sale and assignment, 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 New York, New York, are permitted or required by Applicable Law to remain closed.

"Buyer" is defined in the preamble.

"Buyer Indemnified Party" is defined in Section 8.2(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 9.4.

"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.

"Deferred Payment" has the meaning set forth in Section 1.5(a) of the Sale Agreement.

"Deferred Payment Calculation Certificate" has the meaning set forth in Section 1.5(c) of the Sale Agreement.

"Deferred Payment Calculation Notice" has the meaning set forth in Section 1.5(c) of the Sale Agreement.

"Deferred Payment Termination Date" has the meaning set forth in Section 1.5(a) of the Sale Agreement.

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

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

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

"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.

"Excluded Assets" is defined in Section 2.3.

"Excluded Liabilities and Obligations" is defined in Section 2.4.

"Final Determination" means any final determination as defined in Section 1313(a) of the Code or any corresponding provision of state, local or foreign Applicable Law.

"Financing Statements" is defined in Section 2.5.

"Fundamental Representations" is defined in Section 8.5.

"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 Tax" means any withholding tax imposed by any Governmental Authority in any jurisdiction that would not have been required to be withheld but for any action or inaction of Seller, including (a) a redomiciling of Seller to another jurisdiction and (b) any failure of Seller to provide any applicable documentation permitting payments to be made without (or at a reduced rate of) withholding that is reasonably requested by Buyer and that Seller is legally eligible to provide.

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

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

"Knowledge of Seller" means the actual knowledge of each of the following officers of Seller: the Chief Executive Officer, Chief Operating Officer, Chief Financial Officer and General Counsel, and such knowledge as would be imputed to such individuals upon due inquiry; provided, however, that due inquiry shall not require Seller to contact Medexus.

"Medexus" is defined in the recitals.

"Medexus Consent" is defined in Section 3.6.

"Medexus Instruction Letter" is defined in Section 6.7.

"Medexus Reports" means, collectively, (a) the Deferred Payment Calculation Notices and Deferred Payment Calculation Certificates required to be delivered by Medexus to Seller pursuant to Section 1.5(c) of the Sale Agreement in respect of Net Sales of the Product, (b) the Milestone Sales Calculation Notice required to be delivered by Medexus to Seller pursuant to Section 1.6(a)(iii)(1) of the Sale Agreement, and (c) any notices and supporting documentation delivered by Medexus to Seller in respect of the events specified in Section 1.6(a)(i)-(ii) of the Sale Agreement.

"MidCap" means MidCap Financial Trust, a Delaware statutory trust.

"MidCap Collateral Assignment" means that certain Collateral Assignment, dated as of August 5, 2020, by Seller and Aptevo Research & Development LLC in favor of MidCap, as agent for the lenders from time to time party to the MidCap Credit Agreement.

"MidCap Credit Agreement" means that certain Credit and Security Agreement, dated as of August 5, 2020, by and among Seller and Aptevo Research & Development LLC, as borrowers, the financial institutions from time to time a party thereto, as lenders, and MidCap, as agent.

"MidCap Release" is defined in Section 3.8.

"Milestone Payments" has the meaning set forth in Section 1.6(a) of the Sale Agreement.

"Milestone Sales Calculation Notice" has the meaning set forth in Section 1.6(a)(iii)(1) of the Sale Agreement.

"Modification" is defined in Section 7.5.

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

"Non-Warranting Parties" is defined in Section 9.3(a).

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

"Post-Closing Trigger" means receipt by Buyer of Deferred Payments in the aggregate attributable to Net Sales that occur within the first calendar quarter of 2023 in an amount greater than $500,000.

"Product" has the meaning set forth in Exhibit A of the Sale Agreement.

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

"Purchased Receivables" means (a) each Deferred Payment payable to Seller following January 1, 2023 and each Purchased Milestone Payment; (b) any and all payments or amounts payable to Seller under the Sale Agreement in lieu of such payments of the foregoing clause (a); (c) any and all payments or amounts payable to Seller under Section 1.5(d) or Section 1.6(iii) of the Sale Agreement (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 assessed on any payments described in the foregoing clauses (a), (b) or (c).

"Purchased Milestone Payments" means (i) 25% of the Milestone Payment payable to Seller under Section 1.6(a)(i) of the Sale Agreement and (ii) 50% of each Milestone Payment payable to Seller under Section 1.6(a)(ii) and Section 1.6(a)(iii) of the Sale Agreement.

"Receivables" means 100% of all payments due to Aptevo under the Sale Agreement.

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

"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) to which any Confidential Information is subject.

"Representatives" means, collectively, with respect to any Person, (a) any direct or indirect stockholder, member or partner of such Person and (b) any directors, officers, employees, agents, advisors or other representatives (including attorneys, accountants, consultants, scientists and financial advisors, lenders and investors) of such Person.

"Sale Agreement" is defined in the recitals.

"Seller" is defined in the preamble.

"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 (v), the rights or remedies of Seller under the Sale Agreement, or (v) the legal obligations of Medexus to pay the Deferred Payments or the Milestone Payments under the Sale Agreement; or (b) an adverse effect in any respect on the value of the Purchased Receivables (including the timing, amount or duration thereof), 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.

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

"Transaction Documents" means this Agreement, the Bill of Sale and Assignment, the Medexus Instruction Letter, and the Medexus Consent.

"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 2.5 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.

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

(b) "hereof," "hereto," "herein" and "hereunder" and words of similar import when used in this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement;

(c) references to a Person are also to its permitted successors and assigns;

(d) references to an "Article," "Section" "Exhibit" or "Schedule" refer to an Article or Section of, or an Exhibit or Schedule to, this Agreement, unless otherwise specified;

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

(f) 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

(g) 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 either (i) [***] or (ii) $9,600,000 [***] (the "Purchase Price"), by wire transfer of immediately available funds as directed by Seller.

Section 2.2 Post-Closing Trigger Payment. Following the Closing, upon the occurrence of the Post-Closing Trigger, Buyer shall make a one-time payment to Seller of $50,000 by wire transfer of immediately available funds as directed by Seller within 10 Business Days after Buyer's receipt of the Deferred Payments attributable to Net Sales that occur within the first calendar quarter of 2023. Seller hereby agrees and acknowledges that: (i) such payment is a contingent payment obligation of Buyer and there can be no assurance regarding the occurrence of the Post-

Closing Trigger; and (ii) Buyer shall have no obligation or liability with respect to such payment unless and until the Post-Closing Trigger has occurred.

Section 2.3 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 other than the Purchased Receivables (the "Excluded Assets").

Section 2.4 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 2.5 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. Seller 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 in any bankruptcy or insolvency proceeding relating to Seller. Accordingly, Seller will treat the sale, transfer, assignment and conveyance of the Purchased Receivables as sales of "accounts" or "payment intangibles" (as appropriate) in accordance with the UCC 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. Not in derogation of the foregoing statement of the intent of the parties hereto in this regard, and for the purposes of providing additional assurance to Buyer, if notwithstanding the intent of the parties hereto, the sale, transfer, assignment and conveyance contemplated hereby is hereafter held not to be a sale, this Agreement shall constitute a security agreement 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 (and continuation statements with respect to such financing statements when applicable) in such manner and such jurisdiction as may be necessary or appropriate to perfect such security interests.

Section 2.6 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 4% 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 10 Business Days 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 on the date hereof at such place and time as the parties hereto may mutually agree, or on another date as the parties hereto may mutually agree. The date on which the Closing occurs is referred to in this Agreement as 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 Closing Certificates.

(a) *Seller's Closing Certificate*. At the Closing, Seller shall deliver to Buyer a certificate of the Secretary or another officer of Seller, dated the Closing Date, certifying as to (i) the incumbency of the officers of Seller executing the Transaction Documents and (ii) the attached copies of Seller's organizational documents and resolutions adopted by Seller's Board of Directors authorizing the execution and delivery by Seller of the Transaction Documents and the consummation by Seller of the transactions contemplated thereby.

(b) *Buyer's Closing Certificate*. At the Closing, Buyer shall deliver to Seller a certificate of the Secretary or another officer of Buyer, dated the Closing Date, certifying as to the incumbency of the officer of Buyer executing the Transaction Documents.

Section 3.4 Bill of Sale and Assignment. At the Closing, Seller and Buyer shall each deliver to the other party hereto a duly executed counterpart to the Bill of Sale and Assignment, evidencing the sale and assignment to Buyer of the Purchased Receivables.

Section 3.5 Tax Forms. Prior to the Closing, each party hereto shall have delivered to the other party hereto an Applicable Withholding Certificate.

Section 3.6 Medexus Consent. At the Closing, Seller shall deliver to Buyer a consent letter, in form and substance satisfactory to Buyer (the "Medexus Consent"), duly executed by Medexus, pursuant to which Medexus (a) consents to the sale of the Purchased Receivables pursuant to this Agreement, and (b) agrees (i) that Seller may provide to Buyer following the Closing copies of all Medexus Reports and all other notices, correspondence and confidential information relating to the Purchased Receivables that are delivered by Medexus to Seller pursuant to the terms of, or in respect of, the Sale Agreement, and (ii) to pay the Receivables directly to the

Escrow Account in accordance with the Medexus Instruction Letter to be delivered to Medexus on the date of the Escrow Agreement.

Section 3.7 Legal Opinion. At the Closing, Morgan, Lewis & Bockius, LLP, as counsel to Seller, shall deliver to Buyer a duly executed legal opinion in substantially the form of Exhibit D attached hereto.

Section 3.8 MidCap Release. At the Closing, Seller shall deliver to Buyer a release by MidCap of the security interest granted to MidCap in the Sale Agreement and the Purchased Receivables pursuant to the MidCap Credit Agreement and the MidCap Collateral Assignment, which release shall be in a form reasonably acceptable to Buyer (the "MidCap Release").

Section 3.9 Lien Searches. Prior to the Closing, Buyer shall have received (a) the results of a recent search in the state of Delaware of all effective financing statements made against Seller, together with copies of all such filings disclosed by such search and (b) termination statements and amendment statements, as applicable, in each case in form and substance reasonably acceptable to Buyer to be filed with the Secretary of State of the State of Delaware as may be necessary to terminate or amend, as applicable, any effective financing statements that involve or relate to the Purchased Receivables that are disclosed by the search referred to in the immediately preceding clause (a) or as otherwise in existence (including, without limitation, any effective financing statements in favor of Midcap that involve or relate to the Purchased Receivables or the Sale Agreement), which termination statements and amendment statements, as applicable, shall be filed concurrently with the consummation of the Closing.

Section 3.10 Data Room. At the Closing, Seller shall deliver 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 (the "Data Room") for archival purposes only.

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 as set forth below. The Disclosure Schedules have been arranged and numbered in sections and subsections corresponding to each Section or subsection of this ARTICLE IV as to which Seller is limiting or otherwise qualifying its representations and warranties (without any need for reference of any kind in ARTICLE IV hereof to such Section or subsection of the Disclosure Schedules); provided, however, that any information disclosed in the Disclosure Schedules under any such Section or subsection shall be deemed to be disclosed and incorporated in only the specifically identified Section or subsection of the Disclosure Schedules.

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 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, moratorium and other similar laws of general application relating to or affecting creditors' rights generally.

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 articles of organization or bylaws of Seller or (ii) the Sale Agreement, the MidCap Credit Agreement, the MidCap Collateral Assignment. or the MidCap Release, or (b) conflict with, or constitute a material breach of or material default under, any provision of (i) any Applicable Law or Judgment applicable to Seller or (ii) any Contract (other than the Sale Agreement, the MidCap Credit Agreement, or the MidCap Release) to which Seller is a party or by which Seller is bound.

Section 4.5 Consents. No 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 such Consents as shall have been obtained on or prior to the date hereof.

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

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 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 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, other than Piper Sandler, whose fees and expenses shall be paid by Seller.

Section 4.9 Sale Agreement.

(a) *Sale Agreement; Medexus Reports; Material Notices*. Attached hereto as Exhibit E is a true, correct and complete copy of the Sale Agreement. Seller has made available to Buyer true, correct and complete copies of: (i) all Medexus Reports that have been received by Seller prior to the date hereof; and (ii) all material written notices delivered to Medexus by Seller, or by Medexus to Seller, relating to, or involving, the Purchased Receivables pursuant to the Sale Agreement.

(b) *Validity and Enforceability of Sale Agreement.* The Sale Agreement is a valid and binding obligation of Seller and of Medexus, enforceable against each of Seller and Medexus 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, moratorium and other similar laws of general application relating to or affecting creditors' rights generally. The Sale Agreement will continue to be valid, binding and enforceable on identical terms following the consummation of the transactions contemplated by the Transaction Documents. Seller has not received any written notice from Medexus challenging the validity, enforceability, or interpretation of any provision of the Sale Agreement or any obligation of Medexus to pay the Deferred Payments or Milestone Payments thereunder.

(c) *Other Agreements*. The Sale Agreement is the only agreement, instrument, arrangement, waiver or understanding between Seller (or any Affiliate thereof) and Medexus (or any Affiliate thereof) relating to the subject matter thereof, and there are no other agreements, instruments, arrangements, waivers or understandings between Seller (or any Affiliate thereof) and Medexus (or any Affiliate thereof) that relate to the Sale Agreement, the Purchased Receivables, the Deferred Payments or the Milestone Payments, or that would reasonably be expected to result in a Seller Material Adverse Effect. Other than the MidCap Credit Agreement and the MidCap Collateral Assignment, there is no contract, agreement or other arrangement (whether written or oral) to which Seller is a party or by which any of their respective 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 have a Seller Material Adverse Effect.

(d) *No Termination, Force Majeure, etc*. Seller has not (i) given Medexus any notice of termination pursuant to Section 8.1 of the Sale Agreement or (ii) received from Medexus any written notice of termination pursuant to Section 8.1 of the Sale Agreement. No event has occurred, and there is no event that upon notice or the passage of time, or both, would reasonably be expected to give Seller or Medexus the right to terminate, or delay any of its obligations under, the Sale Agreement, or cease or delay paying the Deferred Payments or Milestone Payments.

(e) *No Breaches*. There is and has been no material breach of the Sale Agreement by Seller, and there is no event that upon notice or the passage of time, or both, would reasonably be expected to give rise to any material breach by Seller of the Sale Agreement. There is and has been no material breach of the Sale Agreement by Medexus, and there is no event that

upon notice or the passage of time, or both, would reasonably be expected to give rise to any such material breach by Medexus. Seller has not received any notice that Seller or Medexus is in default of, or of an intention by Medexus to breach, the Sale Agreement.

(f) *No Payments*. As of the date of this Agreement, except as set forth on Schedule 4.9(f), Medexus has not made, and Seller has not received, any Deferred Payments or Milestone Payments.

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

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

(i) *Audits*. Seller has not requested access to or conducted and audit of, pursuant to Section 1.5(d) or Section 1.6(iii) of the Sale Agreement, the books of account or records of Medexus or disputed the amount of any Deferred Payment or Milestone Payment.

(j) *Set-Offs*. Medexus is not owed any amount by Seller, under the Sale Agreement or otherwise, that Medexus would have the right to set-off against the Deferred Payments, Milestone Payments, or any other amounts payable to Seller under the Sale Agreement. Medexus has not in the past exercised any set-off against the Deferred Payments, Milestone Payments, or any other amounts payable to Seller under the Sale Agreement.

(k) *Sale Agreement Representations*. To the Knowledge of Seller, all representations and warranties of Seller in the Sale 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 Medexus has made or provided any notice of an indemnity claim under the Sale Agreement.

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

(n) *Freedom-to-operate*. No 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 Medexus. To the Knowledge of Seller, there is no patent owned or

exclusively controlled by a third party which Medexus does not have the right to use and that would be infringed by Medexus'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 liens in favor of MidCap pursuant to the MidCap Credit Agreement and MidCap Collateral Assignment. Upon payment of the Purchase Price by Buyer and delivery of the MidCap Release, 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. Upon the filing by Buyer of the Financing Statements with the Secretary of State of the State of Delaware and to the extent the Purchased Receivables constitute an asset of Seller that has not been sold as contemplated by the foregoing provisions of this Section 4.10, the security interest in the Purchased Receivables granted by Seller to Buyer pursuant to Section 2.5 shall be perfected and prior to all other liens thereon to the extent that such security interest in the Purchased Receivables 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 its organization has been, "Aptevo Therapeutics Inc." Seller's jurisdiction of organization is, and since its organization has been, the State of Delaware. Seller's principal place of business is, and since its organization has been, located in Seattle, Washington.

Section 4.12 Taxes. No deduction or withholding for or on account of any tax has been or, to the Knowledge of Seller, was required to be made from any payment by Medexus to Seller under the Sale Agreement. Seller has not received written notice from Medexus 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 provided in accordance with the generally accepted accounting principles applicable to Seller, as in effect from time to time. There are no existing liens for taxes on the Purchased Receivables (or any portion thereof) other than statutory liens for taxes not yet due.

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

Section 4.14 Disclosure. None of the representations or warranties of Seller contained in this Agreement or any Transaction Document and none of the information contained in any schedule, certificate, or other document delivered by or on behalf of Seller pursuant hereto or thereto or in connection with the transactions contemplated hereby or thereby contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements herein or therein not misleading.

ARTICLE V

BUYER'S REPRESENTATIONS AND WARRANTIES

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

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, moratorium and other similar laws of general application relating to or affecting creditors' rights generally.

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 or default under any provision of the organizational documents of Buyer, (b) conflict with or constitute a material breach of or material default under any provision of (i) any Applicable Law or Judgment applicable to Buyer or (ii) any Contract to which Buyer is a party or by which Buyer is bound, except for such breaches or defaults that, individually or in the aggregate, would not reasonably be expected to result in a Buyer Material Adverse Effect.

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.

Section 5.9 Tax Status. Buyer is a "United States person", as defined in section 7701(a)(30) of the Code.

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 (x) the date of termination of this Agreement pursuant to Section 9.14(a) and (y) the date of expiration of the last to expire of the Relevant Obligations.

(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) concerning, or relating in any way, directly or indirectly, to the other party ("Disclosing Party"), the Sale Agreement, or the Purchased Receivables, including any Medexus 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. Notwithstanding the foregoing, "Confidential Information" shall not include the existence or terms of this Agreement, or 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).

(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 or regulatory authority or required by Applicable Law (as reasonably determined by Disclosing Party after consulting with legal counsel), legal process, or the regulations of a stock exchange or governmental or regulatory 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 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, nothing in this Section 6.1 shall be construed to restrict Receiving Party from disclosing Confidential Information to Receiving Party's Affiliates, Representatives, 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, 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 reasonable restrictions of confidentiality.

(d) *Termination of Confidentiality Agreement*. Effective upon the date hereof, the Confidential Disclosure Agreement, dated December 19, 2022 (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.

(e) *Specific Enforcement*. Receiving Party acknowledges and agrees that remedies at law may not be adequate to protect Disclosing Party against any actual or threatened breach of this Section 6.1 by Receiving Party, its Affiliates or its or its Affiliates' Representatives, and that Disclosing Party shall be entitled to seek specific performance and temporary and permanent injunctive relief or other equitable relief as a remedy for any such actual or threatened breach.

Section 6.2 Taxes.

(a) For United States federal, state, local and non-United States tax purposes, Seller and Buyer shall treat (i) the transactions contemplated by the Transaction Documents as a sale of the Purchased Receivables, (ii) the payment of any amounts pursuant to Section 2.2 as an adjustment to the Purchase Price, and (iii) 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, in each case, unless otherwise required by a Final Determination.

(b) 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, and (ii) to provide (to the extent it is legally eligible to do so) any additional tax forms that the other party may reasonably request. Buyer agrees to notify Seller promptly if the statements in Section 5.9 (if made as of any date after the Closing Date) cease, or because of any change of Applicable Law or any act or omission planned, suffered or performed by Buyer, would in the future cease, to be true.

(c) Buyer and Seller acknowledge and agree that, under Applicable Law as of the date of this Agreement, no taxes are expected to be deducted or withheld from payments under this Agreement. 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, if amounts are deducted or withheld from amounts payable to Buyer in respect of an Indemnified Tax, Seller shall make a payment to Buyer so that, after all such required deductions and withholdings attributable to amounts 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.

(d) Each of Buyer and Seller shall cooperate with 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 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 2.5 and (c) enable Buyer to exercise or enforce any of Buyer's rights under any Transaction Document to which Buyer is party.

Section 6.4 Distribution of Purchased Receivables.

(a) Deposit of Purchased Receivables. In accordance with the Medexus Instruction Letter, from and after the date of the Escrow Agreement, Seller shall direct Medexus to deposit all Receivables to the Escrow Account.

(b) Release of Non-Purchased Receivables. If Buyer shall receive any payment under the Sale Agreement that does not consist entirely of Purchased Receivables, Buyer shall promptly, and in any event no later than five Business Days remit to Seller the portion, if any, of such payment that does not constitute Purchased Receivables by wire transfer of immediately available funds to such account as Seller may designate in writing (such designation to be made at least three Business Days prior to any such payment).

Section 6.5 Medexus Instructions. Prior to the termination of this Agreement pursuant to Section 9.14(a), Seller shall not, without Buyer's prior written consent, deliver any further directions to Medexus.

Section 6.6 Escrow Agreement. The Parties agree to negotiate and enter into the Escrow Agreement within ten days of the Closing Date.

Section 6.7 Medexus Instruction Letter. On the date of the Escrow Agreement, Seller shall deliver to Buyer and Medexus an instruction letter, in substantially the form of Exhibit C attached hereto (the "Medexus Instruction Letter"), duly executed by Seller, instructing Medexus to pay the Receivables to the Escrow Account.

ARTICLE VII

COVENANTS RELATING TO THE SALE AGREEMENT

Section 7.1 Performance of Sale Agreement.

(a) Seller agrees that it shall (i) comply in all material respects with its obligations under the License 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 and (iii) use Commercially Reasonable Efforts to cure any such breach by Seller of the Sale 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 and (v) not, without the prior written consent of Buyer, (A) exercise any right to offset, modify or terminate the Sale Agreement, in whole or in part, (B) agree with Medexus to offset, modify or terminate the Sale Agreement, in whole or in part, or (C) take, or permit any Affiliate or sublicensee to take, any action that would reasonably be expected to give Medexus the right to offset, modify or terminate the Sale Agreement, in whole or in part. Subject to the foregoing, promptly, and in any event within five Business Days,

following receipt by Seller of any notice of breach of termination of the Sale 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, and the Sale 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, material breach or default under the Sale Agreement.

Section 7.2 Misdirected Payments; Setoffs.

(a) *Misdirected Payments*. If Seller shall, notwithstanding the provisions of the Medexus Instruction Letter, receive any Purchased Receivables, Seller shall promptly, and in any event no later than five Business Days, remit to Buyer such Purchased Receivables.

(b) *Setoffs by Medexus*. If Medexus sets off against the Purchased Receivables any amount owing from Seller, then Seller shall promptly, and in any event no later than five Business Days, pay to Buyer a sum equal to the amount of such set-off. After Seller makes the payment referred to in the first sentence of this Section 7.2(b), Seller shall be entitled to, and Buyer shall not be entitled to, any amounts recovered from Medexus in respect of such set-off.

(c) *Remittances*. All remittances pursuant to this Section 7.2 shall be made (i) without set-off or deduction of any kind (except as required by Applicable Law) and (ii) by wire transfer of immediately available funds to such account as Buyer may designate in writing (such designation to be made at least three Business Days prior to any such payment), as the case may be.

(d) *Payments Held In Trust*. Seller agrees that it shall hold any amounts received by it to which Buyer is entitled under this Agreement in trust and agrees that it shall have no right, title or interest whatsoever in such amounts.

(e) A late fee of 4% over the prime rate published by the Wall Street Journal, from time to time, as the prime rate shall accrue on all unpaid amounts on an annualized basis with respect to any sum payable under this Section 7.2 beginning five Business Days after receipt of such payment received in error.

Section 7.3 Medexus Reports; Notices; Correspondence.

(a) Promptly, and in any event no later than five Business Days, following the receipt by Seller of (a) Medexus Reports required to be delivered pursuant to the Sale Agreement or (b) any material written notice or material written correspondence relating to, or involving the Purchased Receivables, Seller shall furnish a true, correct and copy of the same to Buyer.

(b) Seller shall not send any material written notice or correspondence to Medexus relating to, or involving, the Purchased Receivables pursuant to the Sale 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 five Business Days, provide to

Buyer a copy of any material notice or correspondence sent by Seller to Medexus relating to, or involving, the Purchased Receivables pursuant to the Sale Agreement. Seller shall use Commercially Reasonable Efforts to respond to any reasonable inquiries of Buyer related to or involving the Purchased Receivables.

Section 7.4 Audits of Medexus.

(a) *Consultation*. Seller and Buyer shall consult with each other regarding the timing, manner and conduct of (i) any audit of Medexus's books of accounts and other records with respect to the Deferred Payments and Milestone Payments pursuant to Section 1.5(d) or Section 1.6(a)(iii) of the Sale Agreement, (ii) any dispute with respect to a Deferred Payment Calculation Certificate pursuant to Section 1.5(d) of the Sale Agreement, and (iii) any dispute with respect to a Milestone Sales Calculation Notice pursuant to Section 1.6(a)(iii) of the Sale Agreement.

(b) *Audits*.

(i) If requested in writing by Buyer, Seller shall cause an independent, certified public accountant reasonably acceptable to Medexus to audit Medexus's books of accounts and other records with respect to the Deferred Payments and Milestone Payments pursuant to Section 1.5(d) or Section 1.6(a)(iii) of the Sale Agreement, as applicable; provided, however, that Buyer shall not be entitled to request such an audit more frequently than once in any calendar year. 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 Medexus). 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 shall instead be borne (as such expenses are incurred) by Buyer. If, following the completion of such an audit, Medexus reimburses Seller for the costs of such audit pursuant to Section 1.5(d) or Section 1.6(a)(iii) of the Sale Agreement, Seller shall promptly (and in any event within five Business Days of receipt by Seller of such reimbursement), remit 100% of the amount of such reimbursement to Buyer (or 50% in the case of a Seller Participated Audit). Notwithstanding the above, upon reasonable request of Seller, any examination 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 examination, 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 examination under Section 1.5(d) or Section 1.6(a)(iii) of the Sale 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 examination 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 examination 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 examination, 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 examination, Medexus reimburses Seller for the costs of such examination pursuant to Section 1.5(d) or Section 1.6(a)(iii) of the Sale Agreement, Seller shall promptly (and in any event within five Business Days of receipt by Seller of such reimbursement), remit 50% of the amount of such reimbursement to Buyer.

Section 7.5 Amendment of Sale Agreement. Seller shall provide Buyer a copy of any proposed amendment, supplement, modification or waiver (a "Modification") of any provision of the Sale Agreement as soon as practicable and in any event not less than five 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 five Business Days, following receipt by Seller of a fully executed Modification of the Sale Agreement, Seller shall furnish a true, correct, and complete copy of such Modification to Buyer.

Section 7.6 Enforcement of Sale Agreement.

(a) *Notice of Medexus Breaches*. Promptly, and in any event within five Business Days after Seller becoming aware of a material breach of, or a material alleged breach of, the Sale Agreement by Medexus that relates to the Purchased Receivables, Seller shall promptly (but in any event within five Business Days) provide notice of such breach to Buyer describing in reasonable detail the relevant breach. In addition, Seller shall provide Buyer a copy of any written notice of such breach or such alleged breach of the Sale Agreement that relates to the Purchased Receivables as soon as practicable and in any event not less than five Business Days following such delivery.

(b) *Enforcement of Sale Agreement*. Seller shall consult with Buyer regarding the breach event referred to in Section 7.6(a) and as to the timing, manner and conduct of any enforcement of Medexus's obligations under the Sale 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 by operation of Applicable Law, and use Commercially Reasonable Efforts to enforce compliance by Medexus with the relevant provisions of the Sale Agreement. In connection with any enforcement of Medexus's obligations under the Sale 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 five 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*. The proceeds from any enforcement of Medexus's obligations under the Sale Agreement pursuant to this Section 7.6, after deduction of all costs and expenses (including reasonable and documented attorneys' fees and expenses) incurred by Seller in connection with such enforcement, shall be, promptly (and in any event within five Business Days) following the receipt of such proceeds, allocated to Buyer and Seller in proportion to their respective interests in the Receivables. All costs and expenses (including reasonable and documented attorneys' fees and expenses) of any enforcement of Medexus's obligations under the Sale Agreement pursuant to this Section 7.6 (other than any costs

and expenses of Seller that are satisfied out of the proceeds of such enforcement) shall be borne by [***]. 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, the Purchased Receivables. Promptly, and in any event within five Business Days following receipt by Seller of a written request from Medexus for consent to assign or prior written notice of an assignment of the Sale Agreement (in whole or in part), Seller shall provide notice thereof to Buyer. Promptly (and in any event no later than five Business Days) following Seller's receipt of any fully executed assignment of the Sale Agreement by Medexus, Seller shall furnish a copy of such assignment to Buyer.

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 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; and

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

(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; and

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

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, 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 (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); 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.

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) [***]; provided that the limitations set forth in this Section 8.4 shall not apply to breaches of any Fundamental Representations or Losses arising out of any 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 the third anniversary of the Closing Date; provided, however, that (i) the representations and warranties 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 4.11 (UCC Matters), Section 4.12 (Taxes), Section 5.1 (Organization), Section 5.2 (Authorization), Section 5.3 (Enforceability), Section 5.4 (Absence of Conflicts), Section 5.7 (Brokers' Fees) and Section 5.9 (Tax Status) (the "Fundamental Representations") shall survive until 90 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 such third anniversary or prior to the expiration of such ninety (90)-day period, as applicable.

Section 8.6 No Implied Representations and Warranties. Buyer acknowledges and agrees that, other than the 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 and that it shall have no remedies in respect of, any representation or warranty not specifically set forth in ARTICLE IV, except in the case of fraud, intentional misrepresentation or willful misconduct. Except in the case of fraud, intentional misrepresentation or willful misconduct, Buyer acknowledges and agrees that (a) Buyer, together with its Affiliates and Representatives, have made their own investigation of the

Purchased Receivables, the Sale Agreement and the transactions contemplated by the Transaction Documents and shall have no remedies in respect of, any implied warranties or upon any representation or warranty whatsoever as to the future amount or potential amount of the Purchased Receivables, or as to the creditworthiness of Medexus (or any of its Affiliates) and (b) except as expressly set forth in any representation or warranty in ARTICLE IV, Buyer shall have no claim or right regarding losses or damages pursuant to this ARTICLE VIII (or otherwise) with respect to any information, documents or materials furnished or made available to Buyer or any of its Affiliates or its or its Affiliates' Representatives in any data room, presentation, interview or in any other form or manner relating to the transactions contemplated by the Transaction Documents or the Sale Agreement.

Section 8.7 Exclusive Remedy. Other than for breaches of any covenants or agreements set forth in Section 6.1, the parties hereto acknowledge and agree that, from and after the Closing, this ARTICLE VIII shall provide such parties' sole and exclusive remedy with respect to any breached representation or warranty set forth in the Transaction Documents, except that any such claim or matter based upon bad faith, gross negligence 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 for the net present value of all expected payments to Buyer hereunder 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 enforcement of this Agreement, 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

MISCELLANEOUS

Section 9.1 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 9.2 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 9.2.

If to:	Address:
Seller	Aptevo Therapeutics Inc. 2401 4th Avenue Suite 1050 Seattle, WA 98121 *Attention*: General Counsel Email: [***]
with a copy to:	Morgan, Lewis & Bockius, LLP 1701 Market Street Philadelphia, PA 19103 *Attention*: [***] Email: [***]
Buyer	XOMA (US) LLC 2200 Powell Street Suite 310 Emeryville, CA 94608 *Attention*: Legal Department; [***] Email: [***]
with a copy to:	Gibson, Dunn & Crutcher LLP 555 Mission Street San Francisco, CA 94105 *Attention*: [***] Email: [***]

All notices and communications under this Agreement shall be effective upon receipt by the addressee. Notwithstanding anything to the contrary in this Section 9.2, 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 9.3 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 9.3 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 9.4 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 on the date hereof, [***].

Section 9.5 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. Buyer may assign this Agreement and all of Buyer's rights, interests and obligations hereunder, in whole or in part, provided that Buyer promptly thereafter notifies Seller and any such assignee agrees in writing to be bound by the terms of this Agreement. Any purported assignment in violation of this Section 9.5 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 9.6 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 9.7 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 9.8 Independent Contractors. The parties hereto recognize and agree that each is operating as an independent contractor and not as an agent, partner or fiduciary of any other.

Section 9.9 No Third Party Beneficiaries. Except to the extent otherwise contemplated by Section 9.3, 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 9.10 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 9.11 Jurisdiction; Venue; Service Of Process. Each party hereto irrevocably submits to the exclusive jurisdiction of (a) the Civil Branch of the Supreme Court of the State of New York, New York County and (b) the United States District Court for the Southern District of New York 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 Civil Branch of the Supreme Court of the State of New York, New York County, 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 Southern District of New York. Each party hereto further agrees that service of any process, summons, notice or document by courier or personal delivery in accordance with Section 9.2 shall be effective service of process for any action, suit or other proceeding in New York with respect to any matters to which it has submitted to jurisdiction in this Section 9.10. 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) the Civil Branch of the Supreme Court of the State of New York, New York County or (ii) the United States District Court for the Southern District of New York, 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.

Section 9.12 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 9.13 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 9.14 Termination of Agreement.

(a) Subject to Section 9.14(b), this Agreement shall continue in full force and effect until the date that is 120 days after the Deferred Payment Termination Date, at which point this Agreement shall terminate, save for any rights, obligations or claims of any party hereto which have accrued prior to such termination (along with any corresponding limitations of liability in respect thereof).

(b) The following provisions shall survive any termination of this Agreement pursuant to this Section 9.14: Section 6.1 (Confidentiality); Use of Names) Section 7.2 (Misdirected Payments; Setoffs), Section 7.3 (Medexus Reports; Notices; Correspondence), ARTICLE VIII (Indemnification) and ARTICLE IX (Miscellaneous).

(c) If, upon the termination of this Agreement, any Deferred Payments 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 9.14) solely for that purpose.

(d) Nothing contained in this Section 9.14 shall relieve either party from liability for any breach of this Agreement that occurs prior to termination.

[*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:

APTEVO THERAPEUTICS INC.

By:/s/ Marvin L. White
Name: Marvin L. White
Title: President & Chief Executive Officer

BUYER:

XOMA (US) LLC

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

FORM OF BILL OF SALE AND ASSIGNMENT

[***]

[*Signature Page to Bill of Sale and Assignment*]

DISCLOSURE SCHEDULES

[***]

EXHIBIT C
TO PAYMENT INTEREST PURCHASE AGREEMENT

March __, 2023

MEDEXUS INSTRUCTION LETTER

[***]

LEGAL OPINION

[***]

SALE 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, 2023

/s/ OWEN HUGHES

Owen Hughes

Executive Chairman of the Board of Directors and Interim Chief 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, 2023

/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, 2023, 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, 2023

/s/ OWEN HUGHES

Owen Hughes
Executive Chairman of the Board of Directors and Interim Chief 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.