

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

Amendment No. 1

to

FORM S-1

**REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933**

CINGULATE INC.

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction of
incorporation or organization)

2834

(Primary Standard Industrial
Classification Code Number)

86-3825535

(I.R.S. Employer
Identification Number)

**1901 W. 47th Place
Kansas City, KS 66205
(913) 942-2300**

(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

**Shane J. Schaffer
Chief Executive Officer
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(913) 942-2300**

(Name, address, including zip code, and telephone number, including area code, of agent for service)

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Approximate date of commencement of proposed sale to public:

As soon as practicable after this Registration Statement is declared effective.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, check the following box. ☒

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a 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 ☐
Non-accelerated filer ☒

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 to Section 7(a)(2)(B) of the Securities Act. ☐

The Registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until the Registration Statement shall become effective on such date as the Securities and Exchange Commission, acting pursuant to said Section 8(a), may determine.

The information contained in this preliminary prospectus is not complete and may be changed. These securities may not be sold until the registration statement filed with the Securities and Exchange Commission is effective. This preliminary prospectus is not an offer to sell these securities and it is not soliciting an offer to buy these securities in any state where the offer or sale is not permitted.

PRELIMINARY PROSPECTUS

SUBJECT TO COMPLETION

DATED JANUARY 29, 2024

Up to 2,298,850 Shares of Common Stock
Up to 2,298,850 Series A Warrants to Purchase up to 2,298,850 Shares of Common Stock
Up to 1,149,425 Series B Warrants to Purchase up to 1,149,425 Shares of Common Stock
Up to 2,298,850 Pre-Funded Warrants to Purchase up to 2,298,850 Shares of Common Stock
Up to 5,747,125 Shares of Common Stock Underlying the Series A Warrants, Series B Warrants and Pre-Funded Warrants
Up to 183,908 Placement Agent Warrants to Purchase up to 183,908 Shares of Common Stock
Up to 183,908 Shares of Common Stock Underlying the Placement Agent Warrants



Cingulate Inc.

We are offering up to 2,298,850 shares of common stock, par value \$0.0001 per share, together with Series A warrants to purchase up to 2,298,850 shares of common stock, which we refer to as the “Series A warrants,” and Series B warrants to purchase up to 1,149,425 shares of common stock, which we refer to as the “Series B warrants,” at an assumed combined public offering price of \$4.35 per share and accompanying warrants (the last reported sale price of our common stock on the Nasdaq Capital Market, or Nasdaq, on January 24, 2024). The Series A warrants and the Series B warrants are hereinafter referred to as the “warrants.” Each share of our common stock is being sold together with one Series A warrant to purchase one share of common stock and one Series B warrant to purchase one-half of a share of common stock. The Series A warrants will have an exercise price of \$ per share (100% of the combined public offering price per share of common stock and accompanying warrants) and will be exercisable beginning on the effective date of stockholder approval of the issuance of the shares upon exercise of the warrants (“Warrant Stockholder Approval”), provided however, if the Pricing Conditions (as defined below) are met, the Series A warrants will be exercisable upon issuance (the “Initial Exercise Date”). The Series A warrants will expire on the five-year anniversary of the Initial Exercise Date. The Series B warrants will have an exercise price of \$ per share (100% of the combined public offering price per share of common stock and accompanying warrants) and will be exercisable beginning on the Initial Exercise Date. The Series B warrants will expire on the two-year anniversary of the Initial Exercise Date. This prospectus also relates to the offering of the shares of common stock issuable upon exercise of the Series A warrants and Series B warrants. As used herein “Pricing Conditions” means that the combined offering price per share and accompanying warrants is such that the Warrant Stockholder Approval is not required under Nasdaq rules because either (i) the offering is an at-the-market offering under Nasdaq rules and such price equals or exceeds the sum of (a) the applicable “Minimum Price” per share under Nasdaq rule 5635(d) plus (b) \$0.125 per whole share of common stock underlying the warrants or (ii) the offering is a discounted offering where the pricing and discount (including attributing a value of \$0.125 per whole share underlying the warrants) meet the pricing requirements under the Nasdaq rules.

We are also offering to those investors, if any, whose purchase of shares of our common stock in this offering would result in such investor, together with its affiliates and certain related parties, beneficially owning more than 4.99% (or, at the election of the investor, 9.99%) of our outstanding common stock following the consummation of this offering, the opportunity to purchase, in lieu of the common stock that would otherwise result in the investor’s beneficial ownership exceeding 4.99% (or, at the election of the investor, 9.99%), pre-funded warrants each to purchase one share of our common stock at an exercise price of \$0.0001, which we refer to as the “pre-funded warrants.” Each pre-funded warrant will be exercisable upon issuance and will expire when exercised in full. Each pre-funded warrant is being sold together with one Series A warrant to purchase one share of common stock and one Series B warrant to purchase one-half of a share of common stock. The public offering price for each pre-funded warrant and the accompanying warrants is equal to the price per share of common stock and the accompanying warrants being sold to the public in this offering, minus \$0.0001. This prospectus also relates to the offering of the shares of common stock issuable upon exercise of the pre-funded warrants.

For each pre-funded warrant we sell, the number of shares of common stock we sell in this offering will be decreased on a one-for-one basis. The shares of common stock and/or pre-funded warrants and the accompanying warrants can only be purchased together in this offering but will be issued separately and will be immediately separable upon issuance.

This offering will terminate on February 14, 2024, unless we decide to terminate the offering (which we may do at any time in our discretion) prior to that date. We will have one closing for all the securities purchased in this offering. The combined public offering price per share (or pre-funded warrant) and accompanying warrants will be fixed for the duration of this offering.

We have engaged H.C. Wainwright & Co., LLC, or the placement agent, to act as our exclusive placement agent in connection with this offering. The placement agent has agreed to use its reasonable best efforts to arrange for the sale of the securities offered by this prospectus. The placement agent is not purchasing or selling any of the securities we are offering and the placement agent is not required to arrange the purchase or sale of any specific number or dollar amount of securities. We have agreed to pay to the placement agent the placement agent fees set forth in the table below, which assumes that we sell all of the securities offered by this prospectus. Since we will deliver the securities to be issued in this offering upon our receipt of investor funds, there is no arrangement for funds to be received in escrow, trust or similar arrangement. There is no minimum offering requirement as a condition of closing of this offering. Because there is no minimum offering amount required as a condition to closing this offering, we may sell fewer than all of the securities offered hereby, which may significantly reduce the amount of proceeds received by us, and investors in this offering will not receive a refund in the event that we do not sell an amount of securities sufficient to pursue our business goals described in this prospectus. In addition, because there is no escrow account and no minimum offering amount, investors could be in a position where they have invested in our company, but we are unable to fulfill all of our contemplated objectives due to a lack of interest in this offering. Further, any proceeds from the sale of securities offered by us will be available for our immediate use, despite uncertainty about whether we would be able to use such funds to effectively implement our business plan. See the section entitled “Risk Factors” for more information. We will bear all costs associated with the offering. See “Plan of Distribution” on page 137 of this prospectus for more information regarding these arrangements.

We effected a 1-for-20 reverse stock split on November 30, 2023, pursuant to which every 20 shares of our issued and outstanding common stock were reclassified as one share of common stock. The reverse stock split had no impact on the par value of our common stock or the authorized number of shares of our common stock. Unless otherwise indicated, all share and per share information in this prospectus is adjusted to reflect the reverse stock split.

Our common stock is listed on Nasdaq under the symbol “CING.” The closing price of our common stock on Nasdaq on January 26, 2024 was \$3.71 per share. There is no established public trading market for the pre-funded warrants, Series A warrants or Series B warrants, and we do not expect such a market to develop. We do not intend to apply to list the pre-funded warrants, Series A warrants or Series B warrants on any securities exchange or other nationally recognized trading system. Without an active trading market, the liquidity of the pre-funded warrants, Series A warrants and Series B Warrants will be limited.

Certain information in this prospectus is based on an assumed public offering price of \$4.35 per share and accompanying warrants (the last reported sale price of our common stock on Nasdaq on January 24, 2024). The actual public offering price will be determined between us and the placement agent based on market conditions at the time of pricing, and may be at a discount to the current market price of our common stock. Therefore, the recent market price per share of common stock used throughout this prospectus as an assumed combined public offering price may not be indicative of the final offering price.

We are an “emerging growth company” under applicable Securities and Exchange Commission rules and will be subject to reduced public company reporting requirements.

Investing in our securities is highly speculative and involves a high degree of risk. See “Risk Factors” beginning on page 7 of this prospectus for a discussion of information that should be considered in connection with an investment in our securities.

	Per Share and Accompanying Warrants	Per Pre-Funded Warrant and Accompanying Warrants	Total
Public offering price	\$		\$
Placement agent fees ⁽¹⁾	\$		\$
Proceeds to us, before expenses ⁽²⁾	\$		\$

- (1) We have agreed to pay the placement agent a cash fee equal to 8.0% of the gross proceeds raised in this offering. We have also agreed to reimburse the placement agent for certain of its offering related expenses, including reimbursement for non-accountable expenses in an amount up to \$50,000, legal fees and expenses in the amount of up to \$100,000, and for its clearing expenses in the amount of \$15,950. In addition, we have agreed to issue the placement agent or its designees warrants to purchase a number of shares of common stock equal to 8.0% of the shares of common stock sold in this offering (including the shares of common stock issuable upon the exercise of the pre-funded warrants), at an exercise price of \$ per share, which represents 125% of the public offering price per share and accompanying warrant. For a description of compensation to be received by the placement agent, see “Plan of Distribution” for more information.
- (2) Because there is no minimum number of securities or amount of proceeds required as a condition to closing in this offering, the actual public offering amount, placement agent fees, and proceeds to us, if any, are not presently determinable and may be substantially less than the total maximum offering amounts set forth above. For more information, see “Plan of Distribution.”

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or passed upon the accuracy or adequacy of this prospectus. Any representation to the contrary is a criminal offense.

Delivery of the securities offered hereby is expected to be made on or about , 2024, subject to satisfaction of customary closing conditions.

H.C. Wainwright & Co.

The date of this prospectus is , 2024.

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You should rely only on the information contained in this prospectus. No one has been authorized to provide you with information that is different from that contained in this prospectus. This prospectus is dated as of the date set forth on the cover hereof. You should not assume that the information contained in this prospectus is accurate as of any date other than that date.

For investors outside the United States: We have not done anything that would permit this offering or possession or distribution of this prospectus in any jurisdiction where action for that purpose is required, other than in the United States. You are required to inform yourselves about and to observe any restrictions relating to this offering and the distribution of this prospectus.

PROSPECTUS SUMMARY

This summary highlights information contained elsewhere in this prospectus and does not contain all of the information that you should consider before making your investment decision. Before investing in our securities, you should carefully read this entire prospectus, including the “Risk Factors” section in this prospectus. If any of the risks materialize, our business, financial condition, operating results, and prospects could be materially and adversely affected. In that event, the price of our securities could decline, and you could lose part or all of your investment. Unless we state otherwise or the context otherwise requires, the terms “we,” “us,” “our,” “our business,” “the Company” and “Cingulate” refer to and similar references refer: (1) on or following the consummation of the Reorganization Merger (as defined below), including our initial public offering, to Cingulate Inc. and its consolidated subsidiaries, including Cingulate Therapeutics LLC, or CTx; and (2) prior to the consummation of the Reorganization Merger, including our initial public offering, to CTx and its consolidated subsidiaries.

Overview

We are a biopharmaceutical company using our proprietary Precision Timed ReleaseTM (“PTRTM”) drug delivery platform technology to build and advance a pipeline of next-generation pharmaceutical products designed to improve the lives of patients suffering from frequently diagnosed conditions characterized by burdensome daily dosing regimens and suboptimal treatment outcomes. With an initial focus on the treatment of Attention Deficit/Hyperactivity Disorder (“ADHD”), we are identifying and evaluating additional therapeutic areas where our PTR technology may be employed to develop future product candidates, such as anxiety disorders. Our PTR platform incorporates a proprietary Erosion Barrier Layer (“EBL”) designed to allow for the release of drug substance at specific, pre-defined time intervals, unlocking the potential for once-daily, multi-dose tablets.

We are targeting the ADHD treatment market, with an estimated US market size of over \$23 billion as of November 2023, of which \$18.6 billion is attributable to stimulants. Stimulants are the most commonly prescribed class of medications for ADHD and account for approximately 88% of all ADHD medication prescriptions in the United States. By contrast, non-stimulant medications are typically employed only in the second-line or adjunctive therapy setting and accounting for approximately 12% of all ADHD medication prescriptions. Extended-release, or long-acting, dosage forms of stimulant medications are most frequently deployed as the first-line treatment for ADHD and constitute approximately \$16 billion of the overall ADHD market spend and accounting for 54% of all stimulant prescriptions. Most of these extended-release dosage forms are approved for once-daily dosing in the morning and were designed to eliminate the need for re-dosing during the day. However, with the current ‘once-daily’ extended-release dosage forms, most patients still receive a second or “booster” dose for administration later in the day (typically in the early afternoon) to achieve active-day coverage and suffer from a multitude of unwanted side effects as a result. We believe there is a significant, unmet need within the current treatment paradigm for true once-daily ADHD stimulant medications with a duration that provides entire active-day coverage combined with an improved side effect profile to better serve the numerous unmet needs of patients.

Our two proprietary, first-line stimulant medications: CTx-1301 (dexamethylphenidate) and CTx-1302 (dextroamphetamine), are being developed for the treatment of ADHD in the three main patient segments: children (ages 6 -12), adolescents (ages 13-17), and adults (ages 18+). Both CTx-1301 and CTx-1302 are designed to address the key shortcomings of currently approved stimulant therapies by: providing an immediate onset of action (within 30 minutes); offering ‘entire active-day’ duration; eliminating the need for a ‘booster/recovery’ dose of short-acting stimulant medications; minimizing or eliminating the rebound/crash symptoms associated with early medication ‘wear-off;’ and providing favorable tolerability with a controlled descent of drug blood levels. Furthermore, by eliminating the ‘booster’ dose used by up to 60% of ADHD patients in conjunction with their primary medication, we believe our product candidates will provide important societal and economic benefits: reducing the abuse and diversion associated with short-acting stimulant medications; allowing physicians to prescribe one medication versus two; allowing patients to pay for one medication versus two; and allowing payers to reimburse one medication versus two.

Recent Developments

Debt Conversion

In August 2022, we issued a \$5.0 million (the “Original Principal Amount”) promissory note (the “Original Note”) in favor of Werth Family Investment Associates LLC (“WFIA”), and in May 2023, we issued an Amended and Restated Promissory Note (the “WFIA Note”) increasing the principal amount under the Original Note by \$3.0 million to \$8.0 million. On September 8, 2023, Cingulate Inc. and CTx entered into a note conversion agreement with WFIA, pursuant to which WFIA agreed to convert the Original Principal Amount under the WFIA Note plus all accrued interest thereon, or \$5,812,500, into pre-funded warrants (“September WFIA Pre-Funded Warrants”) to purchase 341,912 shares of our common stock at a conversion price per pre-funded warrant of \$17.00.

On January 25, 2024, we entered into a note conversion agreement with WFIA (the “January 2024 Note Conversion Agreement”) and converted the remaining \$3.0 million of principal plus all accrued interest, or \$3,287,500 into pre-funded warrants (the “January WFIA Pre-Funded Warrants”) to purchase 687,043 shares of Common Stock at a conversion price per January WFIA Pre-Funded Warrant of \$4.785 (the “January 2024 Debt Conversion”). The closing price of our common stock on January 24, 2024 was \$4.35. The January WFIA Pre-Funded Warrants have no expiration date and are exercisable immediately at an exercise price of \$0.0001 per share, to the extent that after giving effect to such exercise, WFIA and its affiliates would beneficially own, for purposes of Section 13(d) of the Exchange Act, no more than 19.99% of the outstanding shares of our common stock. After the conversion of the remaining principal amount plus all accrued interest thereon and the issuance of the pre-funded warrants, the WFIA Note has been paid in full and the Company has no further obligations under the WFIA Note.

Chief Financial Officer Appointment

On January 25, 2024, we appointed Jennifer L. Callahan as our Senior Vice President and Chief Financial Officer. Ms. Callahan will serve as our Principal Financial Officer and Principal Accounting Officer. In connection with Ms. Callahan’s appointment, CTx entered into an employment agreement with Ms. Callahan on January 25, 2024. The employment agreement provides for a base salary of \$350,000 annually. However, in connection with the cost-containment measures disclosed on December 15, 2023, Ms. Callahan’s annual base salary is reduced by 40% to \$210,000. In connection with such reduction, we will pay Ms. Callahan, on the date that is three months after the filing date of the New Drug Application for CTx-1301 with the Federal Drug Administration, an amount equal to the aggregate dollar amount of base salary through the payment date that was not paid to her due to the salary reductions plus 20% of the reduction amount. In addition, Ms. Callahan is eligible to receive an annual bonus, with a target amount equal to twenty-five percent (25%) of Ms. Callahan’s annual base salary. The actual amount of each bonus will be determined by the sole discretion of our Compensation Committee and will be based upon both our performance and Ms. Callahan’s individual performance, as recommended by our Chief Executive Officer.

Warrant Exercises and ATM Sales

During the period beginning October 1, 2023 and ending on the date of this prospectus, investors have exercised certain of our outstanding pre-funded warrants to purchase 260,261 of our common stock (such exercises, the “Warrant Exercises”).

During the period beginning October 1, 2023 and ending on the date of this prospectus, we sold 283,800 shares of common stock pursuant to an At The Market Offering Agreement with H.C. Wainwright & Co., LLC (the “ATM Agreement”), for net proceeds of \$3,115,303 (the “ATM Sales”).

Reverse Stock Split

We effected a 1-for-20 reverse stock split on November 30, 2023, pursuant to which every 20 shares of our issued and outstanding common stock were reclassified as one share of common stock. The reverse stock split had no impact on the par value of our common stock or the authorized number of shares of our common stock. Unless otherwise indicated, all share and per share information in this prospectus is adjusted to reflect the reverse stock split.

Going Concern

This offering is being made on a best efforts basis and we may sell fewer than all of the securities offered hereby and may receive significantly less in net proceeds from this offering. Assuming that we receive a minimum of \$10.0 million of proceeds from this offering, we believe that the net proceeds from this offering, together with our cash on hand, will satisfy our capital needs until the fourth quarter of 2024 under our current business plan and assuming that we receive \$5.0 million of proceeds from this offering, we believe that the net proceeds from this offering, together with our cash on hand, will satisfy our capital needs until the second quarter of 2024 under our current business plan. Following this offering, we will need to raise additional capital to fund our operations and continue to support our planned development and commercialization activities.

Nasdaq

Our common stock and warrants are currently listed for trading on Nasdaq. On May 16, 2023, we received a notice from the Listing Qualifications Staff (the “Staff”) of The Nasdaq Stock Market LLC stating that we no longer comply with the minimum stockholders’ equity requirement of \$2.5 million under the Nasdaq Stock Market Listing Rule 5550(b)(1) (the “Minimum Stockholders’ Equity Rule”) for continued listing. We submitted a plan of compliance to Nasdaq on June 30, 2023. On July 28, 2023, The Nasdaq Stock Market notified us that that it granted an extension until November 13, 2023 to regain compliance with the Minimum Stockholders’ Equity Rule, conditioned upon achievement of certain milestones included in the plan of compliance previously submitted to The Nasdaq Stock Market, including a plan to raise additional capital. On November 14, 2023, we received a letter from Nasdaq indicating that, based upon our continued non-compliance with the Minimum Stockholders’ Equity Rule, the Staff had determined to delist our securities from Nasdaq, subject to our request for a hearing before the Nasdaq Hearings Panel (the “Panel”).

We timely requested a hearing before Panel and Nasdaq granted our request. At the Panel hearing, which is expected to take place in February 2024, we will submit our plan to regain compliance, as well as our ability to sustain long-term compliance, with all applicable requirements for continued listing on Nasdaq, including compliance with the Minimum Stockholders’ Equity Rule and the Independent Director Rule (defined below). The delisting action by the Staff will be stayed pending the hearing and the expiration of any additional extension period granted by the Panel following the Panel hearing. We intend to continue to take definitive steps in an effort to evidence compliance with the Minimum Stockholders’ Equity Rule, the Independent Director Rule and other Nasdaq listing requirements; however, there can be no assurance that the Panel will grant our request for continued listing or that we will be able to evidence compliance with the Minimum Stockholders’ Equity Rule, the Independent Director Rule and other Nasdaq listing requirements within any extension period that may be granted by the Panel. Based on our current operating plan, we believe that we need to raise approximately \$8 million of additional capital to comply with the Minimum Stockholders’ Equity Rule. Even if we regain compliance with the Minimum Stockholders’ Equity Rule, to remain listed we will need to evidence the ability to maintain long term compliance with the Minimum Stockholders’ Equity Rule.

On July 28, 2023, we received notice from The Nasdaq Stock Market indicating that we were not in compliance with the requirement to maintain a minimum bid price of \$1.00 per share for continued listing on Nasdaq. We were provided a compliance period of 180 calendar days from the date of the notice, or until January 24, 2024, to regain compliance with the minimum closing bid requirement, pursuant to the Nasdaq Stock Market Listing Rule 5810(c)(3)(A). On November 30, 2023, we effected a reverse stock split of our common stock, and on December 15, 2023, we received notice from The Nasdaq Stock Market that we have regained compliance with minimum closing bid price requirement. There can be no assurance that we will continue to maintain compliance with the minimum closing bid price requirement or the other Nasdaq listing requirements.

On December 26, 2023, we received a letter from the Staff indicating that, based upon the resignation of three members of our Board of Directors (“Board”) on December 12, 2023 and December 13, 2023, we no longer comply with the independent director, audit committee, compensation committee and independent director oversight of director nominations requirements as set forth in Nasdaq Listing Rule 5605 (the “Independent Director Rule”). Our Board currently consists of two directors, neither of whom are independent.

We are in the process of identifying potential new directors and intend to show progress in complying with the Independent Director Rule prior to the Panel hearing. There can be no assurance that we will regain compliance with the Independent Director Rule.

We must satisfy Nasdaq's continued listing requirements, including, among other things, the Minimum Stockholders' Equity Rule and the Independent Director Rule or risk delisting, which could have a material adverse effect on our business. If our common stock and warrants are delisted from Nasdaq, it could materially reduce the liquidity of our common stock and warrants and result in a corresponding material reduction in the price of our common stock and warrants as a result of the loss of market efficiencies associated with Nasdaq and the loss of federal preemption of state securities laws. In addition, delisting could harm our ability to raise capital through alternative financing sources on terms acceptable to us, or at all, and may result in the potential loss of confidence by investors, suppliers, customers and employees and fewer business development opportunities. If our common stock and warrants are delisted, it could be more difficult to buy or sell our common stock and warrants or to obtain accurate quotations, and the price of our common stock and warrants could suffer a material decline. Delisting could also impair our ability to raise capital on acceptable terms, if at all.

Our Organizational Structure

Cingulate Inc. is a Delaware corporation that was formed to serve as a holding company. In connection with our initial public offering, we effected certain organizational transactions. On September 29, 2021, Cingulate acquired Cingulate Therapeutics LLC, or CTx, through the merger of a wholly-owned acquisition subsidiary of Cingulate with and into CTx (the "Reorganization Merger"). As a result of the Reorganization Merger, CTx became a wholly-owned subsidiary of Cingulate. Unless otherwise stated or the context otherwise requires, all information in this prospectus reflects the consummation of the Reorganization Merger.

Corporate Information

Our primary executive offices are located at 1901 West 47th Place, Kansas City, Kansas 66205 and our telephone number is (913) 942-2300. Our website address is www.cingulate.com. The information contained on, or that can be accessed through, our website is not part of this prospectus and should not be considered as part of this prospectus or in deciding whether to purchase our securities.

Cingulate, PTR, Cingulate Therapeutics, Enfoqis, Enfoqus, Trodesca, Ivoqus, Taylerza, Tymprezi, Accomplish, Mastery and our logo are some of our trademarks used in this prospectus. This prospectus also includes trademarks, tradenames and service marks that are the property of other organizations. Solely for convenience, our trademarks and tradenames referred to in this prospectus may 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 the right of the applicable licensor to these trademarks and tradenames.

Implications of Being an Emerging Growth Company

As a company with less than \$1.235 billion in revenue during our most recently completed fiscal year, we qualify as an "emerging growth company" as defined in the Jumpstart Our Business Startups Act of 2012, or the JOBS Act. An emerging growth company may take advantage of relief from certain reporting requirements and other burdens that are otherwise applicable generally to public companies. These provisions include:

- reduced obligations with respect to financial data, including presenting only two years of audited financial statements and only two years of selected financial data in this prospectus;
- an exception from compliance with the auditor attestation requirement of Section 404 of the Sarbanes-Oxley Act of 2002, as amended, or the Sarbanes-Oxley Act;
- reduced disclosure about our executive compensation arrangements in our periodic reports, proxy statements and registration statements; and
- exemptions from the requirements of holding non-binding advisory votes on executive compensation or golden parachute arrangements.

We may take advantage of exemptions for up to five years or such earlier time that we are no longer an emerging growth company. Accordingly, the information contained herein may be different than the information you receive from other public companies in which you hold stock. We would cease to be an emerging growth company upon the earliest to occur of: (1) the last day of the fiscal year in which we have more than \$1.235 billion in annual gross revenue; (2) December 31, 2026; (3) the date we are deemed to be a "large accelerated filer" as defined in the Securities Exchange Act of 1934, as amended, or the Exchange Act; and (4) the date on which we have during the previous three-year period issued more than \$1.0 billion in non-convertible debt securities.

The JOBS Act also permits us, as an emerging growth company, to take advantage of an extended transition period to comply with the new or revised accounting standards applicable to public companies and thereby allow us to delay the adoption of those standards until those standards would apply to private companies. We have irrevocably elected to avail ourselves of this exemption and therefore, we will not be subject to the same new or revised accounting standards as other public companies that are not emerging growth companies.

THE OFFERING

The following summary contains basic information about this offering. This summary is qualified in its entirety by the more detailed information included in this prospectus. Before making your investment decision with respect to our securities, you should carefully read this entire prospectus, including the information under “Risk Factors,” “Management’s Discussion and Analysis of Financial Condition and Results of Operations,” and the financial statements included elsewhere in this prospectus.

Common Stock Offered 2,298,850 shares.

Pre-Funded Warrants Offered We are also offering to those investors, if any, whose purchase of shares of our common stock in this offering would result in such investor, together with its affiliates and certain related parties, beneficially owning more than 4.99% (or, at the election of the investor, 9.99%) of our outstanding common stock following the consummation of this offering, the opportunity to purchase, in lieu of the common stock that would otherwise result in the investor’s beneficial ownership exceeding 4.99% (or, at the election of the purchaser, 9.99%), pre-funded warrants each to purchase one share of our common stock at an exercise price of \$0.0001, which we refer to as pre-funded warrants. Each pre-funded warrant is being sold together with one Series A warrant to purchase one share of common stock and one Series B warrant to purchase one-half of a share of common stock. The combined public offering price for each pre-funded warrant and accompanying warrants is equal to the combined public offering price per share of common stock and accompanying warrants being sold in this offering, minus \$0.0001. For each pre-funded warrant we sell, the number of shares of common stock we sell will be decreased on a one-for-one basis. This prospectus also relates to the offering of the shares of common stock issuable upon exercise of the pre-funded warrants. See “Description of Securities We Are Offering” for additional information.

Warrants Offered Each share of common stock or pre-funded warrant is being offered together with one Series A warrant to purchase one share of common stock and one Series B warrant to purchase one-half of a share of common stock. The Series A warrants will have an exercise price of \$ per share (100% of the combined public offering price per share of common stock and accompanying warrants) and will be exercisable beginning on the effective date of the Warrant Stockholder Approval, provided however, if the Pricing Conditions are met, the Series A warrants will be exercisable upon issuance (the “Initial Exercise Date”). The Series A warrants will expire on the five-year anniversary of the Initial Exercise Date. The Series B warrants will have an exercise price of \$ per share (100% of the combined public offering price per share of common stock and accompanying warrants) and will be exercisable beginning on the Initial Exercise Date. The Series B warrants will expire on the two-year anniversary of the Initial Exercise Date. See “Description of Securities We Are Offering” for additional information.

Common Stock Outstanding prior to this Offering (1) 1,450,171 shares.

Common Stock Outstanding after this Offering (1) 3,749,021 shares assuming we sell only shares of common stock and no pre-funded warrants and no exercise of the warrants offered hereby.

Use of Proceeds We estimate that the net proceeds of this offering assuming no exercise of the warrants, after deducting placement agent fees and estimated offering expenses, will be approximately \$8.8 million, assuming we sell only shares of common stock and no pre-funded warrants and assuming no exercise of the warrants. We intend to use all of the net proceeds we receive from this offering for continued research and development and commercialization activities of CTx-1301, and for working capital, capital expenditures and general corporate purposes, including investing further in research and development efforts. Assuming that we receive a minimum of \$10.0 million of proceeds from this offering, we believe that the net proceeds from this offering, together with our cash on hand, will satisfy our capital needs until the fourth quarter of 2024 under our current business plan and assuming that we receive \$5.0 million of proceeds from this offering, we believe that the net proceeds from this offering, together with our cash on hand, will satisfy our capital needs until the second quarter of 2024 under our current business plan. Following this offering, we will need to raise additional capital to fund our operations and continue to support our planned development and commercialization activities. See “Use of Proceeds.”

Nasdaq Capital Market Symbol

Our common stock is listed on Nasdaq under the symbol “CING.” We do not intend to apply to list the pre-funded warrants, Series A warrants or Series B warrants on any securities exchange or other nationally recognized trading system. Without an active trading market, the liquidity of the pre-funded warrants, Series A warrants and Series B warrants will be limited.

Lock-up

All of our directors and executive officers have agreed, subject to certain exceptions, not to sell, transfer or dispose of, directly or indirectly, any of our common stock or securities convertible into or exercisable or exchangeable for our common stock for a period of 90 days after the closing of this offering. See “Plan of Distribution” for more information.

Placement Agent Warrants

We have agreed to issue to the placement agent or its designees, warrants, or the placement agent warrants, to purchase up to 8.0% of the aggregate number of shares of common stock sold in this offering (including the shares of common stock issuable upon the exercise of the pre-funded Warrants) at an exercise price equal to 125% of the public offering price per share and accompanying warrants to be sold in this offering. The placement agent warrants will be exercisable upon issuance and will expire five years from the commencement of sales under this offering. See “Plan of Distribution” for additional information.

Risk Factors

Investment in our securities involves a high degree of risk and could result in a loss of your entire investment. See “Risk Factors” beginning on page 7 of this prospectus for a discussion of the factors you should consider carefully before deciding to invest in our securities.

(1) The number of shares of our common stock to be outstanding immediately after this offering is based on 1,450,171 shares of our common stock outstanding as of January 25, 2024 and excludes, as of such date, the following:

- 73,647 shares of our common stock issuable upon exercise of outstanding stock options issued under our 2021 Equity Incentive Plan (the “2021 Plan”), with a weighted average exercise price of \$59.72 per share;
- 174,479 shares of our common stock that are available for future issuance under the 2021 Plan;
- 786,710 shares of common stock issuable upon the exercise of the warrants with a weighted average exercise price of \$46.40 per share; and
- 1,028,955 shares of common stock issuable upon the exercise of pre-funded warrants with a weighted average exercise price of \$0.0007314 per share.

Unless expressly indicated or the context requires otherwise, all information in this prospectus assumes (i) we issue no pre-funded warrants and (ii) no exercise of the warrants offered hereby.

RISK FACTORS

Investment in our securities involves risk. You should carefully consider the following risk factors in addition to the other information included in this prospectus, including matters addressed in the section entitled “Cautionary Note Regarding Forward-Looking Statement.” These risk factors are not exhaustive, and investors are encouraged to perform their own investigation with respect to our business, financial condition and prospects. We may face additional risks and uncertainties that are not presently known to us, or that we currently deem immaterial, which may also impair our business or financial condition. If any of these risks actually occur, our business, financial condition and results of operations could be materially and adversely affected and we may not be able to achieve our goals, the value of our securities could decline and you could lose some or all of your investment. Additional risks not presently known to us or that we currently believe are immaterial may also significantly impair our business operations. If any of these risks occur, our business, results of operations or financial condition and prospects could be harmed. In that event, the market price of our common stock and the value of the warrants could decline, and you could lose all or part of your investment. The following discussion should be read in conjunction with the financial statements and notes to the financial statements included herein.

Summary of Risks

The following summarizes key risks and uncertainties that could materially adversely affect us. You should read this summary together with the more detailed description of each risk factor contained below.

- We are a biopharmaceutical company with a limited operating history and need additional capital to continue operations, including to advance and commercialize our product candidates.
- We have incurred a history of operating losses and expect to continue to incur substantial costs for the foreseeable future. We are not currently profitable, and we may never achieve or sustain profitability.
- Following this offering, we will need to raise significant additional capital to continue operations, including to complete the development and commercialization efforts for CTx-1301, CTx-1302 and/or CTx-2103. If we are unable to raise additional capital, we could be required to seek bankruptcy protection or other alternatives that would likely result in our securityholders losing some or all of their investment in us.
- If we fail to regain compliance with the continued listing requirements of Nasdaq, our common stock and/or warrants may be delisted and the price of our common stock and/or warrants and our ability to access the capital markets could be negatively impacted.
- We are dependent primarily on the successful development and commercialization of our product candidates, CTx-1301 and CTx-1302 for the treatment of ADHD and CTx-2103 for the treatment of anxiety, which are in either in product/early clinical development (CTx-2103), clinical development (CTx-1301) or planned for future product development (CTx-1302) and are not yet approved. We cannot give any assurance that we will receive regulatory approval for such product candidates or any other product candidates, which is necessary before they can be commercialized.
- Even if we obtain regulatory approval for CTx-1301, CTx-1302 and CTx-2103, such approval may be limited, and we will be subject to stringent, ongoing government regulation. The commercial success of our product candidates, if approved, depends partially upon attaining market acceptance by physicians, patients, third-party payors, and the medical community.
- Social issues around the abuse of opioids and stimulants, including law enforcement concerns over diversion and regulatory efforts to combat abuse, could decrease the potential market for our product candidates.
- Our business is subject to extensive regulatory requirements, and our product candidates that obtain approval will be subject to ongoing and continued regulatory review, which may result in significant expense and limit our ability to commercialize such products.
- We rely on limited sources of supply for CTx-1301 and CTx-1302 as these are scheduled products, and any disruption in the chain of supply may impact production and sales of CTx-1301 and CTx-1302 and cause delays in developing and commercializing our product candidates.
- We rely on third parties to manufacture and package our product candidates and to conduct our clinical trials and our regulatory submissions for our product candidates, and those third parties may not perform satisfactorily, including failing to meet deadlines for the manufacture and delivery of our product candidates, completion of such trials and/or regulatory submissions.

- We will rely on third parties to commercialize our product candidates and we may rely on third parties to perform many essential services for any products that we commercialize, including distribution, customer service, accounts receivable management, cash collection and adverse event reporting. If these third parties fail to perform as expected or to comply with legal and regulatory requirements, our ability to commercialize CTx-1301, CTx-1302, and/or CTx-2103 will be significantly impacted and we may be subject to regulatory sanctions.
- We will need to further increase the size and complexity of our organization in the future, and we may experience difficulties in executing our growth strategy and managing any growth.
- Our research and development is focused on discovering and developing product candidates, which may not make it to the market.
- We are increasingly dependent on information technology, and our systems and infrastructure face certain risks, including cybersecurity and data leakage risks.
- If our intellectual property related to our products or product candidates is not adequate, we may not be able to compete effectively in our market.
- An active trading market for our securities may not be sustained.

Risks Related to Our Financial Position and Need for Capital

We are a biopharmaceutical company with a limited operating history.

We are a biopharmaceutical company with a limited operating history upon which you can evaluate our business and prospects. We must complete clinical studies and receive regulatory approval before commercial sales of a product can commence. The likelihood of success of our business plan must be considered in light of the problems, substantial expenses, difficulties, complications and delays frequently encountered in connection with developing and expanding early-stage businesses and the regulatory and competitive environment in which we operate. Pharmaceutical product development is a highly speculative undertaking, involves a substantial degree of risk and is a capital-intensive business.

Accordingly, you should consider our prospects in light of the costs, uncertainties, delays and difficulties frequently encountered by companies in the early stages of development, especially early-stage pharmaceutical companies such as ours. Potential investors should carefully consider the risks and uncertainties that a company with a limited operating history will face. In particular, potential investors should consider that we cannot assure you that we will be able to, among other things:

- successfully implement or execute our business plan, and we cannot assure you that our business plan is sound;
- successfully complete product development/formulation, and clinical trials for CTx-1301, CTx-1302, and/or CTx-2103 as well as for the marketing of any or all products;
- successfully manufacture or have manufactured clinical product and establish commercial drug supply in light of the manufacturing delays we experienced with respect to the clinical supply of CTx-1301 at our former contract manufacturing organization (“CMO”);
- raise sufficient funds in the capital markets or otherwise to effectuate our business plan, including the completion of our Phase 3 clinical program for CTx-1301;
- secure adequate intellectual property protection for our products;

- attract and retain an experienced management and advisory team in light of the departure of executive officers and other employees in December 2023;
- secure acceptance of our drug candidates in the medical community and with third-party payors and consumers;
- launch commercial sales of our drug candidates, whether alone or in collaboration with others;
- comply with post-marketing regulatory requirements; and
- utilize the funds that we do have and/or raise in the future to efficiently execute our business strategy.

If we cannot successfully execute any one of the foregoing, our business, financial condition, results of operations and future growth prospects would be materially and adversely affected.

We have incurred a history of operating losses and expect to continue to incur substantial costs for the foreseeable future. We are not currently profitable, and we may never achieve or sustain profitability.

We have never generated revenue from operations, are unlikely to generate revenues for several years, and are currently operating at a loss and expect our operating costs will increase significantly as we incur costs related to formulation/manufacturing development, the clinical trials for our drug candidates and operating as a public company. We expect to incur expenses without corresponding revenues unless and until we are able to obtain regulatory approval and successfully commercialize our product candidates, CTx-1301, CTx-1302 and CTx-2103. We may never be able to obtain regulatory approval for the marketing of our drug candidates in any indication in the United States or internationally. Even if we obtain regulatory approval for CTx-1301, CTx-1302 and/or CTx-2103, development expenses will continue to increase for any future assets. As we conduct CTx-1301 Phase 3 clinical trials in pursuit of Federal Drug Administration (“FDA”) approval, we will incur additional clinical development expenses.

We have incurred recurring losses since inception and had an accumulated deficit of approximately \$86.0 million as of September 30, 2023. These conditions raise substantial doubt about our ability to continue as a going concern, meaning that we may be unable to continue operations for the foreseeable future or realize assets and discharge liabilities in the ordinary course of operations. If we are unable to obtain further funding, we may be unable to continue operations. Although we continue to pursue these plans, there can be no assurance that we will be successful in obtaining sufficient funding on terms acceptable to us to fund continuing operations, if at all.

We will continue to expend substantial cash resources for the foreseeable future for the clinical development of our product candidates and development of any other indications and product candidates we may choose to pursue. These expenditures will include costs associated with manufacturing and clinical development, such as conducting clinical trials, manufacturing operations and product candidate supply, as well as marketing and selling any products approved for sale. In particular, our Phase 3 trials in the United States require substantial funds to complete. Because the conduct and results of any clinical trial are highly uncertain, we cannot reasonably estimate the actual amounts necessary to successfully complete the development and commercialization of our current and any future product candidates.

We are uncertain when or if we will be able to achieve or sustain profitability. If we achieve profitability in the future, we may not be able to sustain profitability in subsequent periods. Failure to become and remain profitable would impair our ability to sustain operations and adversely affect the price of our securities and our ability to raise capital.

Following this offering, we will need to raise significant additional capital to continue operations. If we are unable to raise capital, we could be required to seek bankruptcy protection or other alternatives that would likely result in our securityholders losing some or all of their investment in us.

Following this offering, we will need to raise significant additional capital to continue operations and continue to support our planned development and commercialization activities. Assuming that we receive a minimum of \$10.0 million of proceeds from this offering, we believe that the net proceeds from this offering, together with our cash on hand, will satisfy our capital needs until the fourth quarter of 2024 under our current business plan and assuming that we receive \$5.0 million of proceeds from this offering, we believe that the net proceeds from this offering, together with our cash on hand, will satisfy our capital needs until the second quarter of 2024 under our current business plan. The amount and timing of our future funding requirements will depend on many factors, including:

- the timing, rate of progress and cost of any clinical trials and other manufacturing/product development activities for our current and any future product candidates that we develop, in-license or acquire;
- the results of the clinical trials for our product candidates in the United States and any foreign countries;
- the timing of, and the costs involved in, FDA approval and any foreign regulatory approval of our product candidates, if at all;
- the number and characteristics of any additional future product candidates we develop or acquire;
- our ability to establish and maintain strategic collaborations, licensing, co-promotion or other arrangements and the terms and timing of such arrangements;
- the cost of commercialization activities if our current or any future product candidates are approved for sale, including manufacturing, marketing, sales and distribution costs;
- the degree and rate of market acceptance of any approved products;
- costs under our third-party manufacturing and supply arrangements for our current and any future product candidates and any products we commercialize;
- costs and timing of completion of any additional outsourced commercial manufacturing or supply arrangements that we may establish;
- the willingness of our third party service providers to continue to provide services based on our limited liquidity and those service providers not requiring pre-payment for services;
- costs of preparing, filing, prosecuting, maintaining, defending and enforcing any patent claims and other intellectual property rights associated with our product candidates;
- costs associated with prosecuting or defending any litigation that we are or may become involved in and any damages payable by us that result from such litigation;
- costs associated with any product recall that could occur;
- costs of operating as a public company;
- the emergence, approval, availability, perceived advantages, relative cost, relative safety and relative efficacy of alternative and competing products or treatments;
- costs associated with any acquisition or in-license of products and product candidates, technologies or businesses; and
- personnel, facilities and equipment requirements.

We cannot be certain that additional funding will be available on acceptable terms, or at all. In addition, future debt financing into which we may enter may impose upon us covenants that restrict our operations, including limitations on our ability to incur liens or additional debt, pay dividends, redeem our stock, make certain investments and engage in certain merger, consolidation or asset sale transactions.

In late 2023, we initiated several cost cutting measures. These measures include reductions in employee base salaries and a review of essential vendors. In addition, non-management members of the Board had agreed to defer their cash Board fees until a future date. If we are unable to raise additional capital when required or on acceptable terms or if we are unable to enter into strategic collaborations for CTx-1301, CTx-1302, and/or CTx-2103, we may be required to further restrict our operations or obtain funds by entering into agreements on unattractive terms, which would likely have a material adverse effect on our business, stock price and our relationships with third parties with whom we have business relationships, at least until additional funding is obtained.

Raising additional capital may cause dilution to our stockholders, restrict our operations or require us to relinquish rights to our product candidates.

Until such time, if ever, as we can generate substantial product revenue, we expect to finance our cash needs through public or private equity or debt financings, third-party funding, marketing and distribution arrangements, as well as other collaborations, strategic alliances and licensing arrangements, or any combination of these approaches. We do not have any committed external source of funds. To the extent that we raise additional capital through the sale of equity or convertible debt securities, your ownership interest in our company may be diluted, and the terms of these securities may include liquidation or other preferences that adversely affect your rights as a stockholder. Debt and equity financings, if available, may involve agreements that include covenants limiting or restricting our ability to take specific actions, such as redeeming our shares, making investments, incurring additional debt, making capital expenditures, declaring dividends or placing limitations on our ability to acquire, sell or license intellectual property rights. In addition, WFIA holds pre-funded warrants to purchase 1,028,955 shares of our common stock. Upon any exercise of such pre-funded warrants, your ownership interest in our company will be diluted.

If we raise additional capital through future collaborations, strategic alliances or third-party licensing arrangements, we may have to relinquish valuable rights to our intellectual property, future revenue streams, research programs or product candidates, or grant licenses on terms that may not be favorable to us. If we are unable to raise additional capital when needed, we may be required to delay, limit, reduce or terminate our product candidates' development or future commercialization efforts, or grant rights to develop and market product candidates that we would otherwise develop and market ourselves.

Changes in tax laws may materially adversely affect our business, financial condition, results of operations and cash flows.

We are subject to tax laws, regulations and policies of the jurisdictions in which we do business, which may include United States federal, state, and local governments and taxing authorities in foreign jurisdictions. Changes in tax laws, as well as other factors, could cause us to experience fluctuations in our tax obligations and otherwise adversely affect our tax positions and/or our tax liabilities. The income tax rules in the jurisdictions in which we operate are constantly under review by taxing authorities and other governmental bodies. Changes to tax laws (which changes may have retroactive application) could adversely affect us or our stockholders. We are unable to predict what tax proposals may be proposed or enacted in the future or what effect such changes would have on our business, but such changes, to the extent they are brought into tax legislation, regulations, policies or practices, could affect our financial position and overall effective tax rates in the future in jurisdictions where we have operations, and increase the complexity, burden, and cost of tax compliance.

Our ability to use our net operating losses to offset future taxable income may be subject to certain limitations.

Our net operating loss carryforwards (“NOLs”), and certain other tax attributes could be unavailable to offset future income tax liabilities because of restrictions under U.S. tax law. Under the Tax Cuts and Jobs Act, or the TCJA, federal NOLs generated in tax years ending after December 31, 2017 may be carried forward indefinitely. The carryforwards are limited to 80% of each subsequent year’s net income.

In addition, Sections 382 and 383 of the Code, contain rules that limit the ability of a corporation that undergoes an “ownership change” (generally, any change in ownership of more than 50% of the corporation’s stock over a three-year period) to utilize its pre-change NOLs and tax credit carryforwards to offset future taxable income. These rules generally operate by focusing on ownership changes involving stockholders owning directly or indirectly 5% or more of the stock of a corporation and any change in ownership arising from a new issuance of stock by the company. Generally, if an ownership change occurs, the yearly taxable income limitation on the use of NOLs and tax credit carryforwards and certain built-in losses is equal to the product of the applicable long-term, tax-exempt rate and the value of the corporation’s stock immediately before the ownership change. As a result, following any such ownership change, we might be unable to offset our taxable income with losses, or our tax liability with credits, before such losses and credits expire, in which event we could incur larger federal and state income tax liabilities than we would have had we not experienced an ownership change.

The report of our independent registered public accounting firm for the fiscal years ended December 31, 2022 and 2021 contains an explanatory paragraph regarding substantial doubt about our ability to continue as a going concern.

The report of our independent registered public accounting firm on our financial statements as of and for the years ended December 31, 2022 and December 31, 2021 includes an explanatory paragraph indicating that there is substantial doubt about our ability to continue as a going concern. Since inception, we have experienced recurring operating losses and negative cash flows, and we expect to continue to generate operating losses and consume significant cash resources for the foreseeable future. Without additional financing, these conditions raise substantial doubt about our ability to continue as a going concern, meaning that we may be unable to continue operations for the foreseeable future or realize assets and discharge liabilities in the ordinary course of operations. If we are unable to obtain funding, we may be unable to continue operations. Although we continue to pursue these plans, there can be no assurance that we will be successful in obtaining sufficient funding on terms acceptable to us to fund continuing operations, if at all.

Risks Related to Development, Clinical Testing, Manufacturing and Regulatory Approval

We are dependent primarily on the successful development and commercialization of our product candidates, CTx-1301 and CTx-1302 for the treatment of ADHD and CTx-2103 for the treatment of anxiety, which are either in product/early clinical development (CTx-2103), clinical development (CTx-1301) or planned for future product development (CTx-1302) and are not yet approved. We cannot give any assurance that we will receive regulatory approval for such product candidates or any other product candidates, which is necessary before they can be commercialized.

We have not completed development of and/or obtained regulatory approval for any of our product candidates. Development will require the commitment of substantial financial resources, extensive product candidate development, and clinical trials. This process takes years of effort without any assurance of ultimate success.

Our ability to generate revenue from our product candidates, which we do not expect will occur for several years, if ever, will depend heavily on their successful development, regulatory approval, and eventual commercialization. The success of our product candidates will depend on many factors, including, but not limited to:

- successful completion of product development and requisite clinical trials;
- successful completion and achievement of endpoints in our clinical trials;
- demonstration that the risks involved with our product candidates are outweighed by the benefits;
- successful development of our manufacturing processes for our product candidates, including entering into and maintaining arrangements with third-party manufacturers;
- successful completion of an FDA preapproval inspection of the facilities used to manufacture our product candidates, as well as select clinical trial sites;
- receipt of timely marketing approvals from applicable regulatory authorities, including the determination by the United States Drug Enforcement Administration (the “DEA”) of the controlled substance schedule for a product candidate, taking into account the recommendation of the FDA;
- obtaining and maintaining patent, trademark and trade secret protection and regulatory exclusivity for our product candidates and otherwise protecting our rights in our intellectual property portfolio;
- maintaining compliance with regulatory requirements, including current good manufacturing practices, or cGMPs;
- launching commercial sales of product candidates, if and when approved, whether alone or in collaboration with others;
- acceptance of our drug product candidates, if approved, by patients, the medical community and third-party payors;
- competing effectively with other therapies;
- obtaining and maintaining healthcare coverage and adequate reimbursement; and
- maintaining a continued acceptable safety and efficacy profile of the drug products following approval.

If we are unable to achieve one or more of the above factors, many of which are beyond our control, in a timely manner or at all, we could experience significant delays and increased costs or an inability to obtain regulatory approvals or commercialize our product candidates. Even if regulatory approvals are obtained, we may never be able to successfully commercialize any of our product candidates. Accordingly, we cannot assure you that we will be able to generate sufficient revenue through the sale of our product candidates or any future product candidates to continue operations.

Our product development efforts with respect to CTx-1301, CTx-1302 and/or CTx-2103 may fail for many reasons, including but not limited to:

- the failure of the product candidate in clinical studies;
- adverse patient reactions to the product candidate or indications of other safety concerns;
- insufficient clinical trial data to support the effectiveness or superiority of the product candidate;
- the inability to manufacture sufficient quantities of the product candidate for development or commercialization activities in a timely and cost-efficient manner; and
- changes in the regulatory environment, including pricing and reimbursement, that make development of a new product or of an existing product for a new indication no longer attractive.

Premarket review of our product candidates by the FDA or other regulatory authorities is a lengthy and uncertain process and approval may be delayed, limited or denied, any of which would adversely affect our ability to generate operating revenues.

We are not permitted to market our drug product candidates in the United States until we receive the respective approval of a New Drug Application (“NDA”) from the FDA. The time required to obtain approval, if any, by the FDA is unpredictable, but typically takes multiple years following the commencement of clinical trials, and depends upon numerous factors, including the substantial discretion of the regulatory authorities and the type, complexity and novelty of the product candidates involved. We have not submitted a marketing application such as an NDA to the FDA or any similar application to any other regulatory authority in any jurisdiction.

The FDA has substantial discretion in the drug approval process, including the ability to delay, limit or deny approval of a product candidate for many reasons. For example, the FDA:

- could determine that we cannot rely on the 505(b)(2) regulatory approval pathway for CTx-1301, CTx-1302, CTx-2103 or any other product candidate that we may identify and develop;
- could determine that the information provided by us as part of an IND or NDA is inadequate, contains clinical deficiencies or otherwise fails to demonstrate safety and effectiveness of any of our product candidates for any indication;
- may not find the data from bioequivalence studies and/or clinical trials sufficient to support the submission of an NDA or to obtain marketing approval in the United States, including any findings that the safety risks outweigh clinical and other benefits of our product candidates;
- may require us to perform additional studies to demonstrate the safety, efficacy, pharmacokinetics, or other properties of our product candidates prior to approval, or require such studies as a condition of approval;
- may disagree with our clinical trial designs or our interpretation of data from product development manufacturing data, bioequivalence studies and/or clinical trials, or may change the requirements for approval even after it has reviewed and commented on the design for our trials;
- may determine that we inappropriately relied on a certain listed drug or drugs for our 505(b)(2) NDA or that approval of our applications for CTx-1301, CTx-1302, CTx-2103 or any other product candidate is blocked by patent or non-patent exclusivity of the listed drug or drugs;
- may identify deficiencies in the manufacturing processes or facilities of third-party manufacturers with which we enter into agreements for the supply of the active pharmaceutical ingredient (“API”) used in our product candidates;
- may identify deficiencies in our own manufacturing processes or our proposed scale-up of the manufacturing processes or facilities for the production of our product candidates;
- may approve our product candidates for fewer or more limited indications than we request, or may grant approval contingent on the performance of costly post-approval clinical trials;
- may change its approval policies or adopt new regulations; or
- may not approve the labeling claims that we believe are necessary or desirable for the successful commercialization of our product candidates.

The time and expense of the approval process, as well as the unpredictability of future clinical trial results and other contributing factors, may result in our failure to obtain regulatory approval to market, in the United States or other jurisdictions, CTx-1301, CTx-1302, CTx-2103, or any other drug candidates we are developing or may seek to develop in the future, which would significantly harm our business, results of operations and prospects. In such case, we may also not have the resources to conduct new clinical trials and/or we may determine that further clinical development of any such drug candidate is not justified and may discontinue any such programs.

Clinical testing is expensive, difficult to design and implement, can take many years to complete and is outcome uncertain. We may incur additional costs or experience delays in completing, or ultimately be unable to complete, the commercialization of our product candidates.

It is impossible to predict when or if any of our product candidates will prove effective or safe in humans and will receive regulatory approval. Before obtaining marketing approval from regulatory authorities for the sale of any product candidate, we must complete product/manufacturing development and then conduct clinical trials to demonstrate the safety and efficacy of our product candidates in humans. Clinical trials are expensive, difficult to design and implement, can take many years to complete and are uncertain as to outcome. A failure of one or more clinical trials can occur at any stage of development. The outcome of early clinical trials may not be predictive of the success of later clinical trials, and interim results of a clinical trial do not necessarily predict final results. Interpretation of results from early, usually smaller, studies that suggest positive trends in some subjects, requires caution. Results from later stages of clinical trials enrolling more subjects may fail to show the desired safety and efficacy results or otherwise fail to be consistent with the results of earlier trials of the same product candidates. Later clinical trial results may not replicate earlier clinical trials for a variety of reasons, including differences in trial design, different trial endpoints, or lack of trial endpoints in studies, subject population, number of subjects, subject selection criteria, trial duration, drug dosage and formulation and lack of statistical power in the earlier studies. Moreover, clinical data are often susceptible to varying interpretations and analyses, and many companies that have believed their product candidates performed satisfactorily in early and later stage clinical trials have nonetheless failed to obtain marketing approval of their products.

We may experience numerous unforeseen events during, or as a result of, clinical trials that could delay or prevent our ability to receive marketing approval or commercialize our product candidates, including but not limited to:

- inability to generate satisfactory preclinical, toxicology or other in vivo or in vitro data capable of supporting the initiation or continuation of clinical trials;
- regulators or institutional review boards may not authorize us or our investigators to commence a clinical trial, conduct a clinical trial at a prospective trial site or amend clinical trial protocols as needed;
- we may experience delays in reaching, or fail to reach, agreement on acceptable clinical trial contracts or clinical trial protocols with prospective trial sites and contract research organizations, or CROs;
- inability, delay or failure in identifying and maintaining a sufficient number of trial sites, many of which may already be engaged in other clinical programs;
- clinical trials of our product candidates may produce negative or inconclusive results, including failure to demonstrate statistical significance in cases where that is required, and we may decide, or regulators may require us, to conduct additional clinical trials or abandon drug development programs;
- the number of subjects required for clinical trials of our product candidates may be larger than we anticipate, enrollment in these clinical trials may be slower than we anticipate, or participants may drop out of these clinical trials at a higher rate than we anticipate;
- failure of patients to complete a trial or return for post-treatment follow-up;
- inability to monitor patients adequately during or after treatment;
- clinical sites and investigators deviating from trial protocols, failing to conduct the trial in accordance with regulatory requirements or dropping out of a trial;
- our third-party contractors may fail to comply with regulatory requirements or trial protocols, or meet their contractual obligations to us in a timely manner, or at all;

- regulators or institutional review boards may require that we or our investigators suspend or terminate clinical research for various reasons, including noncompliance with regulatory requirements or a finding that the participants are being exposed to unacceptable health risks;
- the cost of clinical trials of our product candidates may be greater than we anticipate, including if we are not able to pursue the 505(b)(2) NDA pathway for approval of our product candidates;
- failure to initiate or delay of or inability to complete a clinical trial as a result of a clinical hold imposed by the FDA or comparable regulatory authority due to observed safety findings or other reasons;
- regulatory authorities may not agree with our trial design or implementation;
- inability to manufacture sufficient quantities of a drug candidate of acceptable quality for use in clinical trials; and
- our product candidates may have undesirable side effects or other unexpected characteristics, causing us or our investigators, regulators or institutional review boards to suspend or terminate the trials.

If we are required to conduct additional clinical trials or other testing of our product candidates beyond those that we currently contemplate, if we are unable to successfully complete clinical trials of our product candidates or other testing, if the results of these trials or tests are not positive or are only modestly positive or if there are safety concerns, we may:

- be delayed in obtaining marketing approval for our product candidates;
- not obtain marketing approval at all;
- obtain approval for indications or patient populations that are not as broad as intended or desired;
- obtain approval but without the claims necessary for us to successfully commercialize our product candidates;
- obtain approval with labeling that includes significant use or distribution restrictions or safety warnings;
- be subject to additional post-marketing testing, surveillance, or other requirements; or
- have the product removed from the market after obtaining marketing approval.

Our development costs may also increase if we experience delays in testing, clinical trials, manufacturing or obtaining marketing approvals. For example, our development costs increased for CTx-1301 due to rescheduling of the Phase 3 fixed-dose study as a result of manufacturing delays for the final dosage strengths needed for that study. We do not know whether any of our clinical trials will begin as planned, will need to be restructured or will be completed on schedule, or at all. In late 2023, we announced a change in the clinical development plan for CTx-1301 based on feedback from FDA, and accordingly stopped enrollment in two Phase 3 trials of CTx-1301. We may need to restart these trials and/or start new trials in order to win regulatory approval of CTx-1301. We may find it difficult or impossible to restart or start such clinical trials. Significant product manufacturing or clinical trial delays also could shorten any periods during which we may have the exclusive right to commercialize our product candidates or allow our competitors to bring products to market before we do and impair our ability to successfully commercialize our product candidates.

Obtaining regulatory approval for clinical trials of CTx-1301 and CTx-1302 in children and adolescents may require additional studies and/or longer duration of studies since the requirements for regulatory approval for the pediatric populations are more stringent.

Pediatric drug development may require additional studies to determine safe dosing and long-term safety. These additional studies may require investment of significant additional resources beyond those required for regulatory approval of the drugs in adults. Although, we have stopped enrollment in the pivotal Phase 3 fixed-dose pediatric and adolescent safety and efficacy study of CTx-1301 and the Phase 3 pediatric dose-optimization onset and duration study of CTx-1301, we may have to restart and complete these and other trials in order to obtain approval. Approval of CTx-1301 and CTx-1302 may be delayed due to these additional requirements and this may have an adverse effect on the commercial prospects of CTx-1301 and CTx-1302, as well as delay our ability to generate product revenue, possibly materially. In addition, as a result of COVID-19 (or other potential pandemics), there may be a smaller pool of children from which we can enroll for our clinical trials. We cannot guarantee that we will receive regulatory approval to commercialize our product candidates in the pediatric populations or the adult population.

Changes in methods of product candidate manufacturing or formulation may result in additional costs or delay.

As product candidates are developed through nonclinical testing and early to late-stage clinical trials towards potential approval and commercialization, various aspects of the development program, such as manufacturing methods and formulation, may be altered along the way in an effort to optimize processes and results. Such changes may not achieve these intended objectives. Any of these changes could cause our product candidates to perform differently and affect the results of planned clinical trials or other future clinical trials conducted with the altered materials, or they may alter the safety or risk profile of the product candidate that could involve further FDA or other regulatory agency inquiries. Such changes may also require additional testing, FDA notification or FDA approval. This could delay completion of clinical trials, require the performance of bridging clinical trials or the repetition of one or more clinical trials, increase clinical trial costs, delay approval of our product candidates and jeopardize our ability to commence product sales and generate revenue.

Our product candidates CTx-1301 and CTx-1302 contain controlled substances, the manufacture, use, sale, importation, exportation, prescribing and distribution of which are subject to regulation by the DEA.

Before we can commercialize our product candidates, the DEA will need to determine the controlled substance schedule, taking into account the recommendation of the FDA. This may be a lengthy process that could delay our marketing of a product candidate and could potentially diminish any regulatory exclusivity periods for which we may be eligible. Our CTx-1301 and CTx-1302 product candidates, if approved, will be regulated as “controlled substances” as defined in the Controlled Substances Act of 1970 (the “CSA”) and the implementing regulations of the DEA, which establish registration, security, recordkeeping, reporting, storage, distribution, importation, exportation, inventory, quota and other requirements administered by the DEA. These requirements are applicable to us, our contract manufacturers and distributors, as well as prescribers and dispensers of our product candidates. The DEA regulates the handling of controlled substances through a closed chain of distribution. This control extends to the equipment and raw materials used in the manufacturing and packaging, in order to prevent loss and diversion into illicit channels of commerce. A number of states and foreign countries also independently regulate these drugs as controlled substances.

The DEA regulates controlled substances as Schedule I, II, III, IV or V substances. An approved pharmaceutical product may be listed as Schedule II, III, IV or V, depending on the potential for abuse and physical or psychological dependence, with Schedule II substances considered to present the highest risk of abuse and Schedule V substances the lowest relative risk of abuse among such substances. Schedule II drugs are those that meet the following characteristics:

- the drug has a high potential for abuse;
- the drug has a currently accepted medical use in treatment in the United States or a currently accepted medical use with severe restrictions; and
- abuse of the drug may lead to severe psychological or physical dependence.

The active pharmaceutical ingredients in CTx-1301 and CTx-1302 (dexamethylphenidate and dextroamphetamine) are currently listed as Schedule II products. We expect that some of our future product candidates may also be listed by the DEA as Schedule II controlled substances under the CSA. Consequently, the manufacturing, shipping, storing, selling and using of the products, if approved, will be subject to a high degree of regulation. Schedule II drugs are subject to the strictest requirements for registration, security, recordkeeping and reporting, and the distribution, prescribing and dispensing of these drugs are highly regulated.

Annual registration is required for any facility that manufactures, distributes, dispenses, imports or exports any controlled substance. The registration is specific to the particular location, activity and controlled substance schedule.

In addition, a DEA quota system controls and limits the availability and production of controlled substances, and our products may be subject to the DEA’s production and procurement quota scheme. The DEA establishes an aggregate quota for how much of a controlled substance may be produced in total in the United States based on the DEA’s estimate of the quantity needed to meet legitimate scientific and medicinal needs. Manufacturers of controlled substances are required to apply for quotas on an annual basis. If we or our contract manufacturers or suppliers do not obtain a sufficient quota from DEA, we may not be able to obtain sufficient quantities of these controlled substances in order to complete our clinical trials or meet commercial demand, if our product candidates are approved for marketing.

Because of their restrictive nature, these laws and regulations could limit commercialization of our product candidates containing controlled substances. Failure to comply with these laws and regulations could also result in withdrawal of our DEA registrations, disruption in manufacturing and distribution activities, consent decrees, criminal and civil penalties and state actions, among other consequences.

If we experience delays or difficulties in the enrollment of subjects in clinical trials, our receipt of necessary regulatory approvals could be delayed or prevented.

We may not be able to initiate or continue clinical trials for our product candidates if we are unable to locate and enroll a sufficient number of eligible subjects to participate in these trials as required by the FDA or similar regulatory authorities outside the United States. We cannot predict how successful we will be at enrolling subjects in future clinical trials. If we are not successful at enrolling subjects in one clinical trial, it may affect when we are able to initiate our next clinical trial, which could result in significant delays in our efforts to pursue regulatory approval of and commercialize our product candidates. In addition, some of our competitors have ongoing clinical trials to treat the same indications as our product candidates, and subjects who would otherwise be eligible for our clinical trials may instead enroll in clinical trials of our competitors. Subject enrollment is affected by other factors including, but not limited to:

- the size and nature of the subject population specified in the trial protocol;
- the eligibility criteria for the study in question;
- the perceived risks and benefits of the product candidate under study;
- the fact that the product candidate may be a controlled substance;
- severe or unexpected drug-related adverse events experienced by subjects in a clinical trial;
- the availability of drugs approved to treat the diseases or conditions under study;
- the extent of efforts to facilitate timely enrollment in clinical trials;
- the patient referral practices of physicians;
- the ability to obtain and maintain subject informed consent;
- the ability to retain subjects in the clinical trial and their return for follow-up;
- the clinical trial design, including required tests, procedures and follow-up;
- the ability to monitor subjects adequately during and after treatment;
- delays in adding new investigators and clinical sites;
- withdrawal of clinical trial sites from clinical trials;
- the presence of other drug candidates in clinical development for the same indication; and
- the proximity and availability of clinical trial sites for prospective subjects.

Our inability to enroll a sufficient number of subjects for clinical trials would result in significant delays and could require us to abandon one or more clinical trials altogether. Enrollment delays in these clinical trials may result in increased development costs for our product candidates, which could cause our value to decline and limit our ability to obtain additional financing.

Our clinical trials may fail to demonstrate the safety and efficacy of our product candidates, or serious adverse or unacceptable side effects may be identified during the development of our product candidates, which could prevent or delay regulatory approval and commercialization, increase our costs or necessitate the abandonment or limitation of the development of some or all of our product candidates.

Before obtaining regulatory approvals for the commercial sale of our product candidates, we must demonstrate thorough, lengthy, complex and expensive product development and clinical trials that our product candidates are both safe and effective for use in each target indication, and failures can occur at any stage of development. Clinical trials often fail to demonstrate safety and efficacy of the product candidate studied for the target indication.

As with many pharmaceutical products, treatment with our product candidates may produce undesirable side effects or adverse reactions or events. Although our product candidates contain active pharmaceutical ingredients that have already been approved, meaning that the side effects arising from the use of the active pharmaceutical ingredient or class of drug in our product candidates are generally known, our product candidates still may cause undesirable side effects.

If our product candidates are associated with serious side effects in clinical trials or have characteristics that are unexpected, we may need to limit development to more narrow uses or subpopulations in which the side effects or other characteristics are less prevalent, less severe or more acceptable from a risk-benefit perspective. The FDA or an institutional review board may also require that we suspend, discontinue, or limit our clinical trials based on safety information to limit potential serious harm to enrolled subjects. Such findings could further result in regulatory authorities failing to provide marketing authorization for our product candidates.

Our product candidates may cause adverse effects or have other properties that could delay or prevent their regulatory approval or limit the scope of any approved label or market acceptance, or result in significant negative consequences following marketing approval, if any.

If any of our products cause serious or unexpected side effects after receiving market approval, a number of potentially significant negative consequences could result, including, but not limited to:

- the FDA may require additional clinical testing or clinical trials or costly post-marketing testing and surveillance to monitor the safety and efficacy of the product;
- regulatory authorities may withdraw their approval of the product or impose restrictions on its distribution;
- we may be required to create a medication guide outlining the risks of such side effects for distribution to patients, or we may be required to implement a Risk Evaluation and Mitigation Strategy (“REMS”) to ensure that the benefits of the product outweigh the risks;
- regulatory authorities may require the addition of labeling statements, such as warnings or contraindications;
- we may be required to change the way the product is distributed or administered;
- we may need to voluntarily recall our products;
- we could be sued and held liable for harm caused to individuals exposed to or taking our product candidates; or
- our reputation may suffer.

Any of these events could prevent us from achieving or maintaining market acceptance of the affected product or product candidate and could substantially increase the costs of commercializing our products and product candidates.

If the FDA does not conclude that our product candidates are sufficiently bioequivalent, or have comparable bioavailability, to approved reference drugs, or if the FDA does not allow us to pursue the 505(b)(2) NDA pathway as anticipated, the approval pathway for our product candidates will likely take significantly longer, cost significantly more and entail significantly greater complications and risks than anticipated, and the FDA may not ultimately approve our product candidates.

Section 505(b)(2) of the Federal Food, Drug and Cosmetic Act (the “FDCA”) permits the filing of an NDA where at least some of the information required for approval comes from investigations that were not conducted by or for the applicant and for which the applicant has not obtained a right of reference or use from the person by or for whom the investigations were conducted. The FDA interprets Section 505(b)(2) of the FDCA, for the purposes of approving an NDA, to permit the applicant to rely, in part, upon published literature or the FDA’s previous findings of safety and efficacy for an approved product. The FDA may also require the applicant to perform additional clinical trials or measurements to support any deviation from the previously approved product. The FDA may then approve the new product candidate for all or some of the label indications for which the referenced product has been approved, as well as for any new indication sought by the Section 505(b)(2) applicant. The FDA may require an applicant’s product label to have all or some of the limitations, contraindications, warnings or precautions included in the reference product’s label, including a black box warning, or may require the label to have additional limitations, contraindications, warnings or precautions. A key element of our strategy is to seek FDA approval for our current product candidates, CTx-1301, CTx-1302, and CTx-2103, through the 505(b)(2) NDA pathway. If the FDA determines that our product candidates do not meet the requirements of Section 505(b)(2), or if we cannot demonstrate bioequivalence or comparable bioavailability of our product candidates to approved products, we may need to conduct additional clinical trials, provide additional data and information, and meet additional standards for regulatory approval applicable to a traditional NDA submitted pursuant to Section 505(b)(1). Moreover, even if the FDA does allow us to pursue the 505(b)(2) NDA pathway, depending on the product candidate, we may still need to conduct additional clinical trials, including clinical trials to assess product safety or efficacy. If this were to occur, the time and financial resources required to obtain FDA approval for our product candidates, and complications and risks associated with our product candidates, would likely substantially increase.

Moreover, an inability to pursue the 505(b)(2) NDA pathway could result in new competitive products reaching the market more quickly than our product candidates, which could hurt our competitive position and our business prospects. Even if we are allowed to pursue the 505(b)(2) NDA pathway, we cannot assure that our product candidates will receive the requisite approvals for commercialization on a timely basis, if at all. Other companies may achieve product approval of similar products before we do, which would delay our ability to obtain product approval, and expose us to greater competition.

In addition, notwithstanding the approval of a number of products by the FDA under 505(b)(2) over the last few years, some pharmaceutical companies and others have objected to the FDA's interpretation of 505(b)(2) of the FDCA to allow reliance on the FDA's prior findings of safety and effectiveness. If the FDA changes its interpretation of Section 505(b)(2), or if the FDA's interpretation of 505(b)(2) is successfully challenged in court it could delay or even prevent the FDA from approving any 505(b)(2) NDA that we submit in the future. Moreover, the FDA has adopted an interpretation of the three-year exclusivity provisions whereby a 505(b)(2) application can be blocked by exclusivity even if it does not rely on the previously-approved drug that has exclusivity (or any safety or effectiveness information regarding that drug). Under the FDA's interpretation, the approval of one or more of our product candidates may be blocked by exclusivity awarded to a previously-approved drug product that shares certain innovative features with our product candidates, even if our 505(b)(2) application does not identify the previously-approved drug product as a listed drug or rely upon any of its safety or efficacy data. Any failure to obtain regulatory approval of our product candidates would significantly limit our ability to generate revenues, and any failure to obtain such approval for all of the indications and labeling claims we deem desirable could reduce our potential revenues.

Even if our product candidates are approved under 505(b)(2) regulatory pathway, the approval may be subject to limitations on the indicated uses for which the products may be marketed, including more limited subject populations than we request, may require that contraindications, warnings or precautions be included in the product labeling, including a black box warning, may be subject to other conditions of approval, or may contain requirements for costly post-marketing clinical trials, testing and surveillance to monitor the safety or efficacy of the products, or other post-market requirements, such as a REMS. The FDA also may not approve a product candidate with a label that includes the labeling claims necessary or desirable for the successful commercialization of that product candidate.

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

Even if we obtain and maintain regulatory approval of our product candidates in one jurisdiction, such approval does not guarantee that we will be able to obtain or maintain regulatory approval in any other jurisdiction, but a failure or delay in obtaining regulatory approval in one jurisdiction may have a negative effect on the regulatory approval process in others. For example, even if the FDA grants marketing approval of a product candidate within the United States comparable regulatory authorities in foreign jurisdictions must also approve the manufacturing, marketing and promotion of the product candidate in those countries. Approval procedures vary among jurisdictions and can involve requirements and administrative review periods different from those in the United States, including additional nonclinical studies or clinical trials as investigations conducted in one jurisdiction may not be accepted by regulatory authorities in other jurisdictions.

Obtaining foreign regulatory approvals and compliance with foreign regulatory requirements could result in significant delays, difficulties and costs for us and could delay or prevent the introduction of our products in certain countries. If we fail to comply with the regulatory requirements in international markets and/or to receive applicable marketing approvals, our target market will be reduced and our ability to realize the full market potential of our product candidates will be harmed.

Moreover, the acceptance of study data from clinical trials conducted outside the United States or another jurisdiction by the FDA or applicable foreign regulatory authority may be subject to certain conditions. In cases where data from foreign clinical trials are intended to serve as the basis for marketing approval in the United States, the FDA will generally not approve the application on the basis of foreign data alone unless (i) the data are applicable to the United States population and United States medical practice and (ii) the trials were performed by clinical investigators of recognized competence and pursuant to GCP regulations. Additionally, the FDA's clinical trial requirements, including sufficient size of patient populations and statistical powering, must be met. Many foreign regulatory bodies have similar approval requirements. In addition, any foreign trials would be subject to the applicable local laws of the foreign jurisdictions where the trials are conducted. There can be no assurance that the FDA or any applicable foreign regulatory authority will accept data from trials conducted outside of the United States or the applicable jurisdiction.

We may be unable to successfully complete our Phase 3 clinical trials for CTx-1301 or any future clinical trials for any other product candidates.

The conduct of a Phase 3 clinical trial is a complicated process. Although members of our management team have conducted Phase 3 clinical trials in the past while employed at other companies, we as a company have not conducted a Phase 3 clinical trial before, and as a result may require more time and incur greater costs than we anticipate. Failure to include the correct treatment regimen, complete, or delays in, our Phase 3 clinical trials, could prevent us from or delay us in commencing future clinical trials for CTx-1301, obtaining regulatory approval of and commercializing our product candidates, which would adversely impact our financial performance. In addition, some of our competitors are currently conducting clinical trials for product candidates that treat the same indications as CTx-1301, and patients who are otherwise eligible for our clinical trials may instead enroll in clinical trials of our competitors' product candidates.

Patient enrollment is affected by other factors including:

- the severity of the disease under investigation;
- the eligibility criteria for the study in question;
- the perceived risks and benefits of the product candidate under study;
- the efforts to facilitate timely enrollment in clinical trials;
- the patient referral practices of physicians;
- the ability to monitor patients adequately during and after treatment;
- the proximity and availability of clinical trial sites for prospective patients; and
- factors we may not be able to control, such as potential pandemics that may limit subjects, principal investigators or staff or clinical site availability.

We recently announced a change in the clinical development plan for CTx-301 based on feedback from FDA, and accordingly stopped enrollment in two Phase 3 trials of CTx-1301. We may need to restart these trials and/or start new trials in order to win regulatory approval of CTx-1301. We may find it difficult or impossible to restart or start such clinical trials.

Even if we obtain regulatory approval for CTx-1301, CTx-1302, and/or CTx-2103, such approval may be limited, and we will be subject to stringent, ongoing government regulation .

Even if regulatory authorities approve CTx-1301, CTx-1302, and/or CTx-2103 for commercialization, the FDA could approve less than the full scope of indications or labeling claims that we seek or may otherwise require special warnings or other restrictions on their use or marketing. Regulatory authorities may limit the segments of the target population to which we or others may market CTx-1301, CTx-1302, and/or CTx-2103 or limit the target population for our other product candidates. The advantages of CTx-1301, CTx-1302, and/or CTx-2103 may not be agreed to by the FDA or other regulatory authorities or such authorities may otherwise object to the inclusion of related claims in product labeling or advertising and, as a result CTx-1301, CTx-1302, and/or CTx-2103 may not have our expected competitive advantages when compared to other similar products. In particular, the FDA may limit labeling claims based upon the duration of efficacy of our products. In addition, any new legislation addressing drug safety issues could result in delays in product development or commercialization, or increased costs to assure compliance.

If we obtain regulatory approval for any of our product candidates, activities such as the manufacturing processes, labeling, packaging, distribution, adverse event reporting, storage, advertising, promotion and record keeping for the products will be subject to extensive and ongoing regulatory requirements. These requirements include submissions of safety and other post-marketing information and reports, registration, as well as continued compliance with cGMPs. The FDA or comparable regulatory authorities may also impose requirements for costly post-marketing nonclinical studies or clinical trials (often called “Phase 4 trials”) and post-marketing surveillance to monitor the safety or efficacy of the product. If we or a regulatory authority discover previously unknown problems with a product, such as adverse events of unanticipated severity or frequency, production problems or issues with the facility where the product is manufactured or processed, such as product contamination or significant not-compliance with applicable cGMPs, a regulator may impose restrictions on that product, the manufacturing facility or us. Accordingly, we and our CMOs will be subject to continual review and inspections to assess compliance with cGMP and adherence to commitments made in any NDA submission to the FDA or any other type of domestic or foreign marketing application. If we or our third-party providers, including our CMOs fail to comply fully with applicable regulations, then we may be required to initiate a recall or withdrawal of our products.

In addition, later discovery of previously unknown problems with a product, including adverse events of unanticipated severity or frequency, or with our third-party manufacturers or manufacturing processes, or failure to comply with regulatory requirements, may result in the following, among other things:

- restrictions on the manufacturing of the product, the approved manufacturers or the manufacturing process;
- restrictions on the labeling or marketing of a product;
- restrictions on product distribution or use;
- requirements to conduct post-marketing studies or clinical trials;
- withdrawal of the product from the market;
- product recalls;
- warning or untitled letters from the FDA or comparable notice of violations from foreign regulatory authorities;
- refusal of the FDA or other applicable regulatory authority to approve pending applications or supplements to approved applications;
- fines, restitution or disgorgement of profits or revenues;
- suspension or withdrawal of marketing approvals;
- suspension of any of our ongoing clinical trials;
- product seizure or detention or refusal to permit the import or export of products; and
- consent decrees, injunctions or the imposition of civil or criminal penalties.

In addition, the FDA’s or other regulatory authorities’ policies may change and additional government regulations may be enacted that could prevent, limit or delay regulatory approval of our drug candidates. If we are slow or unable to adapt to changes in existing requirements or the adoption of new requirements or policies, or if we are otherwise not able to maintain regulatory compliance, we may lose any marketing approval that we may have obtained, which would adversely affect our business, prospects and ability to achieve or sustain profitability.

The FDA’s policies may change, and additional government regulations may be enacted that could prevent, limit or delay marketing approval of our product candidates. If we are slow or unable to adapt to changes in existing requirements or the adoption of new requirements or policies, or if we are not able to maintain regulatory compliance, we may lose any marketing approval that we may have obtained, which would adversely affect our business, prospects and ability to achieve or sustain profitability.

Our employees, independent contractors, principal investigators, consultants, vendors, CROs, CMOs and any partners with which we may collaborate may engage in misconduct or other improper activities, including noncompliance with regulatory standards and requirements.

We are exposed to the risk that our employees, independent contractors, principal investigators, consultants, vendors, CROs, CMOs, and any partners with which we may collaborate may engage in fraudulent or other illegal activity. Misconduct by these persons could include intentional, reckless or negligent conduct or unauthorized activity that violates laws or regulations, including those laws requiring the reporting of true, complete and accurate information to the FDA or other regulatory authorities; manufacturing standards; federal, state and foreign healthcare fraud and abuse laws; data privacy laws and regulations; or laws that require the true, complete and accurate reporting of financial information or data. In particular, sales, marketing and other business arrangements in the healthcare industry are subject to extensive laws intended to prevent fraud, kickbacks, self-dealing and other abusive practices. These laws may restrict or prohibit a wide range of business activities, including research, manufacturing, distribution, pricing, discounting, marketing and promotion, sales commission, customer incentive programs and other business arrangements. Activities subject to these laws also involve the improper use or misrepresentation of information obtained in the course of clinical trials, or illegal misappropriation of drug product, which could result in regulatory sanctions or other actions or lawsuits stemming from a failure to be in compliance with such laws or regulations, and serious harm to our reputation. In addition, federal procurement laws impose substantial penalties for misconduct in connection with government contracts and require certain contractors to maintain a code of business ethics and conduct. Additionally, we are subject to the risk that a person or government could allege such fraud or other misconduct, even if none occurred. 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 material and adverse impact on our business, financial condition, results of operations and prospects including the imposition of civil, criminal and administrative penalties, damages, monetary fines, disgorgement, imprisonment, loss of eligibility to obtain marketing approvals from the FDA, possible exclusion from participation in Medicare, Medicaid and other federal healthcare programs, contractual damages, reputational harm, diminished profits and future earnings, additional reporting requirements if subject to a corporate integrity agreement or other agreement to resolve allegations of non-compliance with any of these laws, and curtailment or restructuring of our operations, any of which could adversely affect our ability to operate our business and our operating results.

We may be required to modify our business practices, pay fines and significant expenses or experience other losses due to governmental investigations or other enforcement activities.

We may become subject to litigation or governmental investigations in the United States and/or foreign jurisdictions that may arise from the conduct of our business. Like many companies in our industry, we may from time to time receive inquiries and subpoenas and other types of information requests from government authorities and we may be subject to claims and other actions related to our business activities.

While the ultimate outcome of investigations and legal proceedings are difficult to predict, adverse resolutions or settlements of those matters could result in, among other things:

- significant damage awards, fines, penalties or other payments, and administrative remedies, such as exclusion and/or debarment from government programs, or other rulings that preclude us from operating our business in a certain manner;
- changes to our business operations to avoid risks associated with such litigation or investigations;
- product recalls;
- reputational damage and decreased demand for our products; and
- expenditure of significant time and resources that would otherwise be available for operating our business.

While we maintain insurance for certain risks, the amount of our insurance coverage may not be adequate to cover the total amount of all adverse resolutions and settlements of claims and liabilities. It also is not possible to obtain insurance to protect against all potential risks and liabilities.

We or our current and prospective partners may be subject to product recalls in the future that could harm our brand and reputation and could negatively affect our business.

We or our current and prospective partners may be subject to product recalls, withdrawals or seizures if any of our product candidates, if approved for marketing, fail to meet specifications or are believed to cause injury or illness or if we are alleged to have violated governmental regulations including those related to the manufacture, labeling, promotion, sale or distribution. Any recall, withdrawal or seizure in the future could materially and adversely affect consumer confidence in our brands and lead to decreased demand for our approved products. In addition, a recall, withdrawal or seizure of any of our approved products would require significant management attention, would likely result in substantial and unexpected expenditures and would harm our business, financial condition and operating results.

We will need to obtain FDA approval of any proposed names for our product candidates that gain marketing approval, and any failure or delay associated with such naming approval may adversely impact our business.

Any name we intend to use for our product candidates will require approval from the FDA regardless of whether we have secured a formal trademark registration from the United States Patent and Trademark Office (“USPTO”). The FDA typically conducts a review of proposed product names, including an evaluation of whether proposed names may be confused with other product names. The FDA may object to any product name we submit if it believes the name inappropriately implies medical claims. If the FDA objects to any of our proposed product names, we may be required to adopt an alternative name for our product candidates, which could result in further evaluation of proposed names with the potential for additional delays and costs.

Disruptions at the FDA and other government agencies caused by funding shortages or global health concerns could hinder their ability to hire, retain or deploy key leadership and other personnel, or otherwise prevent new or modified products and services from being developed, approved or commercialized in a timely manner, which could negatively impact our business.

The ability of the FDA to review and approve new products can be affected by a variety of factors, including government budget and funding levels, ability to hire and retain key personnel and accept the payment of user fees, statutory, regulatory, and policy changes and other events that may otherwise affect FDA’s ability to perform routine functions. Average review times at the agency have fluctuated in recent years as a result. In addition, government funding of other government agencies that fund research and development activities is subject to the political process, which is inherently fluid and unpredictable.

Disruptions at the FDA and other agencies may also slow the time necessary for new drugs to be reviewed and/or approved or cleared by necessary government agencies, which would adversely affect our business. For example, over the last several years, the United States government has shut down several times and certain regulatory agencies, such as the FDA, have had to furlough critical FDA employees and stop critical activities.

In response to the global pandemic of COVID-19 and public health emergency declarations in the United States, in March 2020, the FDA temporarily postponed most inspections of foreign manufacturing facilities and products, postponed routine surveillance inspections of domestic manufacturing facilities and provided guidance regarding the conduct of clinical trials. The FDA utilized a rating system to assist it in determining when and where it was safest to conduct such inspections based on data about the virus’s trajectory in a given state and locality and the rules and guidelines that were put in place by state and local governments. The FDA used similar data to inform resumption of prioritized operations abroad.

If a prolonged government shutdown or slowdown occurs, or if global health concerns prevent the FDA or other regulatory authorities from conducting their regular inspections, reviews, or other regulatory activities, it could significantly impact the ability of the FDA or other regulatory authorities to timely review and process regulatory submissions, which could have a material adverse effect on our business.

Our future growth depends, in part, on our ability to penetrate foreign markets, where we would be subject to additional regulatory burdens and other risks and uncertainties.

Our future profitability will depend, in part, on our ability to commercialize our product candidates in foreign markets for which we intend to rely on collaborations with third parties. If we commercialize our other product candidates in foreign markets, we would be subject to additional risks and uncertainties, including:

- our customers' ability to obtain market access and appropriate reimbursement for our product candidates in foreign markets;
- our inability to directly control commercial activities because we are relying on third parties;
- the burden of complying with complex and changing foreign regulatory, tax, accounting and legal requirements;
- different medical practices and customs in foreign countries affecting acceptance in the marketplace;
- import or export licensing requirements;
- longer accounts receivable collection times;
- longer lead times for shipping;
- language barriers for technical training;
- reduced protection of intellectual property rights in some foreign countries;
- foreign currency exchange rate fluctuations; and
- the interpretation of contractual provisions governed by foreign laws in the event of a contract dispute.

Foreign sales of our product candidates could also be adversely affected by the imposition of governmental controls, political and economic instability, trade restrictions and changes in tariffs, any of which may adversely affect our results of operations.

A pandemic, epidemic, or outbreak of an infectious disease, such as COVID-19, could cause a disruption to the development of our product candidates.

Public health crises such as pandemics or similar outbreaks could adversely impact our business. In December 2019, COVID-19 spread worldwide. The coronavirus pandemic led to the implementation of various responses, including government-imposed quarantines, travel restrictions and other public health safety measures. The extent to which a pandemic, epidemic or outbreak of an infectious disease impacts our operations or those of our third-party partners, including our development studies or clinical trial operations, will depend on future occurrences, which are highly uncertain and cannot be predicted with confidence, including the duration of any outbreak and the actions to contain or treat its impact, among others. Although the majority of our operations are conducted in the United States, the spread of an infectious disease globally could adversely impact our product candidate development or clinical trial operations in the United States and abroad. Any negative impact infectious diseases have on patient enrollment or treatment or the execution of our product candidates could cause costly delays to clinical trial activities, which could adversely affect our ability to obtain regulatory approval for and to commercialize our product candidates, increase our operating expenses, and have a material adverse effect on our financial results.

Some factors that may delay or otherwise adversely affect enrollment in the clinical trials of our product candidates, as well as our business generally, in the event of a pandemic, epidemic or outbreak of an infectious disease include:

- delays in receiving approval from local regulatory authorities to initiate our planned clinical trials;
- delays or difficulties in enrolling or retaining participants in our clinical trials;

- delays or difficulties in clinical site initiation, including difficulties in recruiting clinical site investigators and clinical site staff;
- delays in clinical sites receiving the supplies and materials needed to conduct our clinical trials, including interruption in global shipping that may affect the transport of clinical trial materials;
- changes in local regulations as part of a response to a pandemic, epidemic or infectious disease, which may require us to change the ways in which our clinical trials are conducted, which may result in unexpected costs, or to discontinue the clinical trials altogether;
- diversion of healthcare resources away from the conduct of clinical trials, including the diversion of hospitals serving as our clinical trial sites and hospital staff supporting the conduct of our clinical trials;
- interruption of key clinical trial activities, such as clinical trial site monitoring, due to limitations on travel imposed or recommended by federal or state governments, employers and others, or interruption of clinical trial participant visits and study procedures, the occurrence of which could affect the integrity of clinical trial data;
- risk that participants enrolled in our clinical trials will acquire an infectious disease while the clinical trial is ongoing, which could impact the results of the clinical trial, including by increasing the number of observed adverse events;
- interruptions in preclinical studies due to restricted or limited operations at our research and development facilities;
- the potential negative effect on the operations of our third-party manufacturers;
- delays in necessary interactions with local regulators, ethics committees, and other important agencies and contractors due to limitations in employee resources or forced furlough of employees;
- limitations in employee resources at third-party CROs that would otherwise be focused on the conduct of our clinical trials, including because of sickness of employees or their families or the desire of employees to avoid contact with large groups of people;
- refusal of the FDA or other regulatory authorities to accept data from clinical trials in affected geographies; and
- delays in FDA pre-approval inspections, which are a prerequisite for approval.

Risks Related to Commercialization

Recently enacted and future policies and legislation may increase the difficulty and cost for us to obtain marketing approval of and commercialize our product candidates and may affect the reimbursement made for any product candidate for which we receive marketing approval.

Legislative and regulatory actions affecting government prescription drug procurement and reimbursement programs occur relatively frequently. In the United States, for example, the Patient Protection and Affordable Care Act (“PPACA”) was enacted in 2010 to expand healthcare coverage and made significant changes to drug reimbursement. Other legislative changes that affect the pharmaceutical industry have been proposed and adopted in the United States since PPACA was enacted. For example, the Inflation Reduction Act of 2022 included, among other things, a provision that authorizes Centers for Medicare and Medicaid Services (“CMS”) to negotiate a “maximum fair price” for a limited number of high-cost, single-source drugs every year, and another provision that requires drug companies to pay rebates to Medicare if prices rise faster than inflation. Complying with any new legislation could be time-intensive and expensive, resulting in a material adverse effect on our business.

In addition, many states have proposed or enacted legislation that seeks to indirectly or directly regulate pharmaceutical drug pricing, such as by requiring biopharmaceutical manufacturers to publicly report proprietary pricing information or to place a maximum price ceiling on pharmaceutical products purchased by state agencies. For example, in 2017, California's governor signed a prescription drug price transparency state bill into law, requiring prescription drug manufacturers to provide advance notice and explanation for price increases of certain drugs that exceed a specified threshold. Both Congress and state legislatures are considering various bills that would reform drug purchasing and price negotiations, allow greater use of utilization management tools to limit Medicare Part D coverage, facilitate the import of lower-priced drugs from outside the United States and encourage the use of generic drugs. Such initiatives and legislation may cause added pricing pressures on our products.

Changes to the Medicaid program at the federal or state level could also have a material adverse effect on our business. Proposals that could impact coverage and reimbursement of our products, including giving states more flexibility to manage drugs covered under the Medicaid program and permitting the re-importation of prescription medications from Canada or other countries, could have a material adverse effect by limiting our products' use and coverage. Furthermore, state Medicaid programs could request additional supplemental rebates on our products as a result of an increase in the federal base Medicaid rebate. To the extent that private insurers or managed care programs follow Medicaid coverage and payment developments, they could use the enactment of these increased rebates to exert pricing pressure on our products, and the adverse effects may be magnified by their adoption of lower payment schedules.

We cannot predict the likelihood, nature or extent of government regulation that may arise from future legislation or administrative or executive action, either in the United States or abroad. We expect that additional state and federal health care reform measures will be adopted in the future, any of which could limit the amounts that federal and state governments will pay for health care products and services. Moreover, the Biden Administration, including the Secretary of the United States Department of Human and Health Services, has indicated that lowering prescription drug prices is a priority, but we do not yet know what steps the administration will take or whether such steps will be successful.

Other proposed regulatory actions affecting manufacturers could have a material adverse effect on our business. It is difficult to predict the impact, if any, of any such proposed legislative and regulatory actions or resulting state actions on the use and reimbursement of our products in the United States, but our results of operations may be adversely affected.

Unfavorable pricing regulations, third-party reimbursement practices or healthcare reform initiatives could harm our business in the future.

There is increasing pressure on pharmaceutical companies to reduce healthcare costs. In the United States, these pressures come from a variety of sources, such as managed care groups and institutional and government purchasers. Increased purchasing power of entities that negotiate on behalf of federal healthcare programs and private sector beneficiaries could increase pricing pressures in the future. Such pressures may also increase the risk of litigation or investigation by the government regarding pricing calculations. The pharmaceutical industry will likely face greater regulation and political and legal actions in the future.

Adverse pricing limitations may hinder our ability to recoup our investment in one or more future product candidates, even if our future product candidates obtain regulatory approval. Adverse pricing limitations prior to approval will also adversely affect us by reducing our commercial potential. Our ability to commercialize any potential products successfully also will depend in part on the extent to which coverage and reimbursement for these products and related treatments becomes available from third-party payors, including government health administration authorities, private health insurers and other organizations. Third-party payors decide which medications they will pay for and establish reimbursement levels. Similar challenges to obtaining coverage and reimbursement, applicable to pharmaceutical products, will apply to companion diagnostics.

A significant trend in the United States healthcare industry and elsewhere is cost containment. Third-party payors have attempted to control costs by limiting coverage and the amount of reimbursement for particular medications. Increasingly, third-party payors are requiring that companies provide them with predetermined discounts from list prices and are challenging the prices charged for medical products. We cannot be sure that coverage and reimbursement will be available for any product that we commercialize in the future and, if reimbursement is available, what the level of reimbursement will be. Reimbursement may impact the demand for, or the price of, any product for which we obtain marketing approval in the future. If reimbursement is not available or is available only to limited levels, we may not be able to successfully commercialize any product candidate that we successfully develop.

There may be significant delays in obtaining reimbursement for approved products, and coverage may be more limited than the purposes for which the product is approved by the FDA or regulatory authorities in other countries. Moreover, eligibility for reimbursement does not imply that any product will be paid for in all cases or at a rate that covers our costs, including research, development, manufacture, sale and distribution. Interim payments for new products, if applicable, may also not be sufficient to cover our costs and may not be made permanent. Payment rates may vary according to the use of the product and the clinical setting in which it is used, may be based on payments allowed for lower cost products that are already reimbursed and may be incorporated into existing payments for other services. Net prices for products may be reduced by mandatory discounts or rebates required by third-party payors and by any future relaxation of laws that presently restrict imports of products from countries where they may be sold at lower prices than in the United States. Third-party payors often rely upon Medicare coverage policy and payment limitations in setting their own reimbursement policies, but also have their own methods and approval process apart from Medicare coverage and reimbursement determinations. Accordingly, one third-party payor's determination to provide coverage for a product does not assure that other payors will also provide coverage for the product. Our inability to promptly obtain coverage and adequate reimbursement from third-party payors for approved products could have a material adverse effect on our operating results, our ability to raise capital needed to commercialize potential products and our overall financial condition.

We may expend our limited resources to pursue a particular product candidate or indication and fail to capitalize on product candidates or indications that may be more profitable or for which there is a greater likelihood of success.

Because we have limited financial and management resources, we focus on development programs and product candidates that we identify for specific indications. As a result, we may forego or delay pursuit of opportunities with other product candidates or for other indications that later prove to have greater commercial potential. Our resource allocation decisions may cause us to fail to capitalize on viable commercial drugs or profitable market opportunities. Our spending on current and future research and development programs and product candidates for specific indications may not yield any commercially viable products. If we do not accurately evaluate the commercial potential or target market for a particular product candidate, we may relinquish valuable rights to that product candidate through collaboration, licensing or other royalty arrangements in cases in which it would have been more advantageous for us to retain sole development and commercialization rights to such product candidate.

The commercial success of our product candidates, if approved, depends partially upon attaining market acceptance by physicians, patients, third-party payors, and the medical community.

Our ability to generate product revenue will depend significantly on our ability to successfully obtain final marketing approval for and commercialize our product candidates.

Even if any of our product candidates CTx-1301, CTx-1302, and/or CTx-2103 obtain regulatory approval, they may not gain sufficient market acceptance among physicians, patients, third-party payors, and the healthcare community. Failure to achieve market acceptance would limit our ability to generate revenue and would affect our results of operations. The degree of market acceptance of CTx-1301, CTx-1302, and/or CTx-2103 will depend on many factors, including:

- the efficacy and potential advantages of CTx-1301, CTx-1302, and/or CTx-2103 and compared to alternative treatments or competitive products;
- the effectiveness of our third-party collaborators' efforts to educate physicians and patients about the potential benefits and advantages of CTx-1301, CTx-1302, and/or CTx-2103;
- the willingness of the healthcare community and patients to adopt new technologies;
- the size of the market for such drug candidate, based on the size of the patient populations we are targeting, in the territories for which we gain regulatory approval and have commercial rights;
- the prevalence and severity of any side effects;

- the safety of the drug candidate as demonstrated through broad commercial distribution;
- the ability to offer our product candidates for sale at competitive prices;
- cost-effectiveness of our product candidates relative to competing products;
- the ability to manufacture all our products CTx-1301, CTx-1302 as well as CTx-2103 in sufficient quantities and yields;
- perceptions of physicians, patients and the healthcare community, including third-party payors, regarding the safety, efficacy and potential benefits of CTx-1301, CTx-1302 and/or CTx-2103 compared to competing products or therapies;
- the timing of any such marketing approval in relation to other product approvals;
- any restrictions on concomitant use of other medications;
- support from patient advocacy groups;
- relative convenience and ease of administration compared to alternative treatments; and
- the availability of adequate coverage and reimbursement from governmental health programs and third-party payors and pricing relative to other competing products and therapies.

If our drug candidates are approved but fail to achieve an adequate level of acceptance by key market participants, we will not be able to generate significant revenues, and we may not become or remain profitable, which may require us to seek additional financing.

Our ability to negotiate, secure and maintain third-party coverage and reimbursement for our product candidates may be affected by political, economic and regulatory developments in the United States and other jurisdictions. Governments continue to impose cost containment measures, and third-party payors are increasingly challenging prices charged for medicines and examining their cost effectiveness, in addition to their safety and efficacy. These and other similar developments could significantly limit the degree of market acceptance of any product candidate of ours that receives marketing approval in the future.

We may face significant competition from other pharmaceutical companies, and our operating results will suffer if we fail to compete effectively.

The pharmaceutical industry is intensely competitive and subject to rapid and significant technological change. If we fail to stay at the forefront of technological change, we may be unable to compete effectively. Technological advances or products developed by our competitors may render our technologies or product candidates obsolete, less competitive or not economical.

We expect to have competitors both in the United States and internationally, including major multinational pharmaceutical companies. For example, amphetamine XR is currently marketed in the United States by Shire under the brand name Adderall XR, and methylphenidate is marketed in the United States by Janssen under the brand name Concerta, and by Novartis under the brand names Focalin XR and Ritalin LA. Further, makers of branded drugs could also enhance their own formulations in a manner that competes with our enhancements of these drugs. Many of our competitors have substantially greater financial, technical and other resources, such as larger research and development staff and more experienced marketing and manufacturing organizations. Mergers and acquisitions in the biotechnology and pharmaceutical industries may result in even more resources being concentrated in our competitors. As a result, these companies may obtain regulatory approval more rapidly than we are able and may be more effective in selling and marketing their products as well. Smaller or early-stage companies may also prove to be significant competitors, particularly through collaborative arrangements with large, established companies. Competition may increase further as a result of advances in the commercial applicability of technologies and greater availability of capital for investment in these industries. Our competitors may succeed in developing, acquiring or licensing on an exclusive basis drug products or drug delivery technologies that are more effective or less costly than our PTR platform, or any product candidate that we are currently developing or that we may develop. In addition, our competitors may file citizens petitions with the FDA in an attempt to persuade the FDA that our products, or clinical trials that support their approval, contain deficiencies or that new regulatory requirements be placed on the product candidate or drug class of the product candidate. Such actions by our competitors could delay or even prevent the FDA from approving any NDA that we submit under Section 505(b)(2).

Even if we are successful in achieving regulatory approval to commercialize a product candidate ahead of our competitors, our future pharmaceutical products may face direct competition from generic and other follow-on drug products. Any of our product candidates that may achieve regulatory approval in the future may face competition from generic products earlier or more aggressively than anticipated, depending upon how well such approved products perform in the United States prescription drug market. Our ability to compete also may be affected in many cases by insurers or other third-party payors seeking to encourage the use of generic products. Generic products are expected to become available over the coming years. Even if our product candidates achieve marketing approval, they may be priced at a significant premium over competitive generic products, if any have been approved by then.

In addition to creating the 505(b)(2) NDA pathway, the Hatch-Waxman Amendments to the FDCA authorized the FDA to approve generic drugs that are the same as drugs previously approved for marketing under the NDA provisions of the statute pursuant to Approved Abbreviated New Drug Applications (“ANDAs”). An ANDA relies on the preclinical and clinical testing conducted for a previously approved reference listed drug (“RLD”) and must demonstrate to the FDA that it is “bioequivalent” to the RLD. The FDA is prohibited by statute from approving an ANDA when certain marketing or data exclusivity protections apply to the RLD. If any such competitor or third party is able to demonstrate bioequivalence without infringing our patents, then this competitor or third party may then be able to introduce a competing generic product onto the market.

We believe that our ability to successfully compete will depend on, but is not limited to:

- the efficacy and safety of our product and product candidates, including as relative to marketed products and product candidates in development by third parties;
- the time it takes for our product candidates to complete clinical development and receive marketing approval;
- the ability to maintain a good relationship with regulatory authorities;
- the ability to commercialize and market any of our product candidates that receive regulatory approval;
- the price of our product and product candidates that receive regulatory approval, including in comparison to branded or generic competitors;
- whether coverage and adequate levels of reimbursement are available under private and governmental health insurance plans, including Medicare;
- the ability to protect intellectual property rights related to our product and product candidates;
- the ability to manufacture on a cost-effective basis and sell commercial quantities of our product and product candidates that receive regulatory approval; and
- acceptance of any of our products and product candidates that receive regulatory approval by physicians and other healthcare providers.

If our competitors market products that are more effective, safer or less expensive than our product, if any, or that reach the market sooner than our products, if any, we may enter the market too late in the cycle and may not achieve commercial success, or we may have to reduce our price, which would impact our ability to generate revenue and obtain profitability.

In addition, successful commercialization will also depend on whether we can adequately protect against and effectively respond to any claims by holders of patents and other intellectual property rights that our products infringe their rights, whether any unanticipated adverse effects or unfavorable publicity develops in respect of our products, as well as the emergence of new or existing products as competition, which may be proven to be more clinically effective and cost-effective. If we are unable to successfully complete these tasks, we may not be able to commercialize in a timely manner, or at all, in which case we may be unable to generate sufficient revenues to sustain and grow our business.

We cannot predict the interest of potential follow-on competitors or how quickly others may seek to come to market with competing products, whether approved as a direct ANDA competitor or as a 505(b)(2) NDA referencing one of our future drug products. If the FDA approves generic versions of our drug candidates in the future, should they be approved for commercial marketing, such competitive products may be able to immediately compete with us in each indication for which our product candidates may have received approval, which could negatively impact our future revenue, profitability and cash flows and substantially limit our ability to obtain a return on our investments in those product candidates.

Social issues around the abuse of opioids and stimulants, including law enforcement concerns over diversion and regulatory efforts to combat abuse, could decrease the potential market for our product candidates.

Media stories regarding prescription drug abuse and the diversion of opioids, stimulants, and other controlled substances are commonplace. Law enforcement and regulatory agencies may apply policies that seek to limit the availability of opioids and stimulants. Such efforts may inhibit our ability to commercialize our product candidates. Aggressive enforcement and unfavorable publicity regarding opioid drugs, the limitations of abuse-deterrent formulations, public inquiries and investigations into prescription drug abuse, litigation or regulatory activity, sales, marketing, distribution or storage of our products could harm our reputation. Such negative publicity could reduce the potential size of the market for our product candidates and decrease the revenue we are able to generate from their sale, if approved.

Additionally, current and future efforts by Congress, state legislatures, the FDA and other regulatory bodies to combat abuse of opioids and stimulants may negatively impact the market for our product candidates. It is possible that lawmakers or the FDA will announce new legislation or regulatory initiatives at any time that may increase the regulatory burden or decrease the commercial opportunity for our product candidates.

Risks Related to Our Dependence on Third Parties

If we fail to produce our product or product candidates in the volumes that are required on a timely basis, or fail to comply with stringent regulations applicable to pharmaceutical drug manufacturers, we may face regulatory penalties and delays in the development and commercialization of our product candidates.

We currently depend on third-party suppliers for the supply of the APIs and excipients for our product candidates. Any shortages in the availability of raw materials could result in production or other delays with consequent adverse effects on us. In addition, because regulatory authorities must generally approve raw material sources for pharmaceutical products, changes in raw material suppliers may result in production delays or higher raw material costs. Any such delays could trigger penalties, which would have a negative impact on our business. If our raw material manufacturers were to encounter difficulties or otherwise fail to comply with their obligations to us, our ability to obtain FDA approval and market our product and product candidates would be jeopardized. In addition, any delay or interruption in the supply of clinical trial supplies could delay or prohibit the completion of our bioequivalence and/or clinical trials, increase the costs associated with conducting our bioequivalence and/or clinical trials and, depending upon the period of delay, require us to commence new trials at significant additional expense or to terminate a trial.

The manufacture of pharmaceutical products requires significant expertise and capital investment, including the development of advanced manufacturing techniques and process controls. Pharmaceutical companies may encounter difficulties in manufacturing scale up of production. These problems include manufacturing difficulties relating to production costs and yields, quality control, including stability of the product and quality assurance testing, shortages of qualified personnel, as well as compliance with federal, state and foreign regulations. We may also need to purchase additional equipment, some of which can take several months or more to procure, setup and validate, and increase our software and computing capacity to meet increased demand. Failure to manage this growth or transition could result in turnaround time delays, higher product costs, declining product quality, or slower responses to competitive challenges. A failure in any one of these areas could make it difficult for us to meet market expectations for our products and could damage our reputation and the prospects for our business.

Manufacturers of pharmaceutical products need to comply with cGMP requirements enforced by the FDA through the agency's facility inspection programs. The cGMP requirements include, among other things, quality control, quality assurance, the maintenance of records and documentation, and the obligation to investigate and correct any deviations from regulatory requirements. A failure to comply with these requirements may result in fines and civil penalties, suspension of production, suspension or delay in product approval, product seizure or voluntary recall, or withdrawal of product approval. If the safety of any of our products or product candidates is compromised due to failure to adhere to applicable laws or for other reasons, we may not be able to obtain, or to maintain once obtained, regulatory approval for such product candidate or successfully commercialize such products or product candidates, and we may be held liable for any injuries sustained as a result. Any of these factors could cause a delay in clinical developments, regulatory submissions, approvals or commercialization of our products or product candidates, entail higher costs or result in our being unable to effectively commercialize our product candidates.

We rely on limited sources of supply for CTx-1301 and/or CTx-1302 as these are scheduled products, and any disruption in the chain of supply may impact production and sales of CTx-1301 and/or CTx-1302 and cause delays in developing and commercializing our product candidates.

The NDAs we plan to submit for CTx-1301 and/or CTx-1302 will include our proposed manufacturing process for each product candidate. Any change to our manufacturing process, facilities or suppliers could require that we amend our NDA. Any change to our manufacturing process, facilities or suppliers could require that we amend our NDA. Also, because of our proprietary processes for manufacturing our product candidates, we cannot immediately transfer manufacturing activities for our drug products to an alternate supplier, and a change of manufacturing facilities would be time-consuming and could be a costly endeavor. For example, in October 2022, we announced a new CMO. The CTx-1301 fixed-dose study was delayed while the manufacturing process with the new CMO was established to manufacture the final dosage strengths needed for the fixed-dose study. Potential future changes in manufacturing facilities would also require us to supplement our NDA filings to include the change of manufacturing site. Identifying an appropriately qualified source of alternative supply for any one or more of the component substances for our product candidates or product could be time consuming, and we may not be able to do so without incurring material delays in the development and commercialization of our product candidates. Any alternative vendor would also need to be qualified through an NDA supplement and may need to undergo an FDA inspection before the supplement can be approved, which could result in further delay, including delays related to additional clinical trials.

These factors could cause the delay of clinical trials, regulatory submissions, required approvals or commercialization of our product candidates, cause us to incur higher costs and prevent us from commercializing them successfully. Furthermore, if our suppliers fail to deliver the required commercial quantities of components and APIs on a timely basis and at commercially reasonable prices, including if our suppliers did not receive adequate DEA quotas for the supply of certain scheduled components, and we are unable to secure one or more replacement suppliers capable of production at a substantially equivalent cost, commercialization of our product candidates, and clinical trials of future potential product candidates, may be delayed or we could lose potential revenue and our business, financial condition, results of operation and reputation could be adversely affected.

We rely and expect to continue to rely completely on third parties to formulate and manufacture our preclinical, clinical trial and commercial drug supplies. The development and commercialization of any of our drug candidates could be stopped, delayed or made less profitable if those third parties fail to provide us with sufficient quantities of such drug supplies or fail to do so at acceptable quality levels, including in accordance with applicable regulatory requirements or contractual obligations, and our operations could be harmed as a result.

We do not currently have, nor do we plan to acquire, the infrastructure or capability internally, such as our own manufacturing facilities, to manufacture our preclinical and clinical drug supplies for our clinical trials and preclinical studies or commercial quantities of any drug candidates that may obtain regulatory approval. We procure bulk drug substance from a sole source, third-party supplier and have contracted with a CMO to produce our drug candidates at its facilities, and we anticipate that we will continue to do so for the foreseeable future. Therefore, we lack the resources and expertise to formulate or manufacture our own drug candidates, and our reliance on third parties increases the risk that we will not have sufficient quantities of bulk drug substances or our product candidates, in such quantities at an acceptable cost, which could delay, prevent or impair our ability to timely conduct our clinical trials or our other development or commercialization efforts. For example, we experienced delays in the manufacturing and delivery of clinical supply for the CTx-1301 fixed-dose study due to operational resource issues at our former CMO. The manufacture of the clinical supply was further delayed while our new CMO establishes its manufacturing process for CTx-1301.

We have entered into an agreement with a CMO and intend for that CMO to manufacture all clinical, registration and commercial batches of our drug candidate, CTx-1301, and we plan to enter into agreements with one or more manufacturers to manufacture, supply, store, and distribute drug supplies for our future clinical trials and/or commercial sales. We intend to establish or continue those relationships for the supply of our drug candidates; however, there can be no assurance that we will be able to retain those relationships on commercially reasonable terms, if at all. If we are unable to maintain those relationships, we could experience delays in our development efforts as we locate and qualify new CMOs. If any of our current drug candidates or any drug candidates we may develop or acquire in the future receives regulatory approval, we will rely on one or more CMOs to manufacture the commercial supply of such drugs.

Even if we are able to maintain our existing third-party relationships or establish any such agreements with other third-party manufacturers, reliance on third-party manufacturers entails additional risks, including, but not limited to:

- reliance on the third party for FDA and DEA regulatory compliance and quality assurance;
- the possible misappropriation of our proprietary information, including our trade secrets and know-how;
- disruption and costs associated with changing suppliers, including additional regulatory filings;
- the possible breach, termination or nonrenewal of the agreement by the third party at a time that is costly or inconvenient for us;
- a delay or inability to procure or expand sufficient manufacturing capacity;
- the inability to negotiate manufacturing agreements with third parties under commercially reasonable terms;
- termination or nonrenewal of manufacturing agreements with third parties in a manner or at a time that is costly or damaging to us; and
- the reliance on a limited number of sources, and in some cases, single sources for product components, such that if we are unable to secure a sufficient supply of these product components, we will be unable to manufacture and sell our product candidates in a timely fashion, in sufficient quantities or under acceptable terms.

Each of these risks could delay our clinical trials, the approval, if any, of our drug candidates or the commercialization of our drug candidates, could result in higher costs or could deprive us of potential product revenues. Some of these events could be the basis for FDA action, including injunction, recall, seizure or total or partial suspension of production.

While we are ultimately responsible for the manufacture of our product candidates, we do not manufacture our products ourselves and are dependent on our CMOs for compliance with cGMPs. Our agreements with our CMOs require them to perform according to certain cGMP requirements such as those relating to quality control, quality assurance and qualified personnel, but we cannot control the conduct of our CMOs to implement and maintain these standards. If our CMOs cannot successfully manufacture material that conforms to our specifications and the strict regulatory requirements of the FDA or other regulatory authorities, we would be prevented from obtaining regulatory approval for our drug candidates unless and until we engage a substitute CMO that can comply with such requirements, which we may not be able to do. Any such failure by any of our CMOs would significantly impact our ability to develop, obtain marketing approval for or market our product candidates, if approved.

Further, if our product candidates are approved, our suppliers will be subject to regulatory requirements, covering manufacturing, testing, quality control and record keeping relating to our product candidates, and subject to ongoing inspections by the regulatory agencies. Failure by any of our suppliers to comply with applicable regulations may result in long delays and interruptions to our manufacturing capacity while we seek to secure another supplier that meets all regulatory requirements, as well as market disruption related to any necessary recalls or other corrective actions.

Third-party manufacturers may not be able to comply with cGMP regulations or similar regulatory requirements outside the United States. Our failure, or the failure of our third-party manufacturers, to comply with applicable regulations could result in sanctions being imposed on us, including warning letters, clinical holds or termination of clinical trials, fines, injunctions, restitution, disgorgement, civil penalties, delays, suspension or withdrawal of approvals or other permits, FDA refusal to approve pending applications, product detentions, FDA consent decrees placing significant restrictions on or suspending manufacturing and distribution operations, debarment, refusal to allow import or export, product detentions, adverse publicity, dear-health-care-provider letters or other warnings, license revocation, seizures or recalls of product candidates, operating restrictions, refusal of government contracts or future orders under existing contracts and civil and criminal liability, including False Claims Act liability, exclusion from participation in federal health care programs, and corporate integrity agreements among other consequences, any of which could significantly and adversely affect supplies of our products.

Failure by our third-party contract manufacturer to maintain DEA regulations as pertain to controlled substances may cause their license to be revoked and production of our products and product candidates may be interrupted or stopped. This would impact our ability to develop, obtain marketing approval for or market our product candidates, if approved.

Our product candidates and any drugs that we may develop may compete with other product candidates and drugs for access to manufacturing facilities, and we may be unable to obtain access to these facilities on favorable terms.

There are a limited number of manufacturers that operate under cGMP regulations and possess a DEA license to procure, hold and work with controlled substances. Any performance failure on the part of our existing or future manufacturers could delay clinical development or marketing approval. We do not currently have arrangements in place for redundant supply or a second contract manufacturer. If our current contract manufacturer cannot perform as agreed, we may be required to replace such manufacturer and we may incur added costs and delays in identifying and qualifying any such replacement. For example, we experienced delays in the manufacturing and delivery of clinical supply for the CTx-1301 fixed-dose study due to operational resource issues at our former CMO. The manufacture of the clinical supply was further delayed while our new CMO establishes its manufacturing process for CTx-1301.

We expect to rely on third parties to conduct our clinical trials and our regulatory submissions for our product candidates, and those third parties may not perform satisfactorily, including failing to meet deadlines for the completion of such trials and/or regulatory submissions.

We expect to engage CROs for our planned clinical trials and our regulatory submissions of our product candidates. We expect to rely on CROs, as well as other third parties, such as clinical data management organizations, regulatory strategists, medical institutions and clinical investigators, to conduct our planned clinical trials, prepare the appropriate regulatory submissions for our product candidates, and assist with ensuring compliance with applicable regulatory requirements. Agreements with such third parties might terminate for a variety of reasons, including a failure to perform by the third parties. If we need to enter into alternative arrangements, our drug development activities would be delayed.

Our reliance on these third parties for clinical development activities may reduce our control over these activities but will not relieve us of our responsibilities. For example, we will remain responsible for ensuring that each of our clinical trials is conducted in accordance with the general investigational plan and protocols for the trial. Moreover, the FDA requires us to comply with regulatory standards, commonly referred to as good clinical practices, or GCPs, for conducting, recording and reporting the results of clinical trials to assure that data and reported results are credible and accurate and that the rights, integrity and confidentiality of trial participants are protected. Regulatory authorities enforce these GCPs through periodic inspections of trial sponsors, principal investigators and trial sites. We also are required to register specified ongoing clinical trials and post the results of completed clinical trials on a government-sponsored database, ClinicalTrials.gov, within specified timeframes. In addition, we must conduct our clinical trials with product produced under cGMP requirements. Failure to comply with these regulations may require us to repeat clinical trials, which would delay the regulatory approval process. Failure to comply with the applicable requirements related to clinical investigations by us, our CROs or clinical trial sites can also result in clinical holds and termination of clinical trials, debarment, FDA refusal to approve applications based on the clinical data, warning letters, withdrawal of marketing approval if the product has already been approved, fines and other monetary penalties, delays, adverse publicity and civil and criminal sanctions, among other consequences.

Furthermore, these third parties may also have relationships with other entities, some of which may be our competitors. If these third parties do not successfully carry out their contractual duties, meet expected deadlines or conduct our clinical trials in accordance with regulatory requirements or our stated protocols, we will not be able to obtain, or may be delayed in obtaining, marketing approvals for our product candidates and will not be able to, or may be delayed in our efforts to, successfully commercialize our product candidates.

In addition, principal investigators for our clinical trials may serve as scientific advisors or consultants to us from time to time and may receive cash or equity compensation in connection with such services. If these relationships and any related compensation result in perceived or actual conflicts of interest, or the FDA concludes that the financial relationship may have affected the interpretation of the study, the integrity of the data generated at the applicable clinical trial site may be questioned and the utility of the clinical trial itself may be jeopardized, which could result in the delay or rejection of any NDA we submit by the FDA. Any such delay or rejection could prevent us from commercializing our product candidates. Further, our arrangements with principal investigators are also subject to scrutiny under other health care regulatory laws, such as the federal Anti-Kickback Statute.

We also expect to rely on other third parties to store and distribute product supplies for our clinical trials. Any performance failure or noncompliance with applicable regulatory requirements, including those of the FDA or DEA, on the part of our distributors could delay clinical development or marketing approval of our product candidates or commercialization of our products, producing additional losses and depriving us of potential product revenue.

If the third parties with whom we contract do not successfully carry out their contractual duties or obligations or meet expected deadlines or if the quality or accuracy of the clinical data they obtain is compromised due to the failure to adhere to our clinical protocols or regulatory requirements or for other reasons, our clinical trials may be extended, delayed or terminated, we may need to conduct additional trials, and we may not be able to obtain regulatory approval for or successfully commercialize our product candidates. As a result, the commercial prospects for our product candidates would be harmed, our costs could increase and our ability to generate revenue could be delayed. To the extent we are unable to successfully identify and manage the performance of third-party service providers in the future, our business may be adversely affected.

We depend on collaborations with third parties for the development and commercialization of our product candidates. If those collaborations are not successful, we may not be able to capitalize on the market potential of these product candidates.

On March 7, 2023, we entered into a Joint Commercialization Agreement (the “Commercialization Agreement”) with Indegene, Inc. (“Indegene”). Pursuant to the Commercialization Agreement, Indegene will provide us with commercialization services for CTx-1301, including services related to (a) medical affairs & pharmacovigilance; (b) pricing, reimbursement and market access; (c) commercial operations; and (d) marketing.

We may also seek additional third-party collaborators for the development and commercialization of our product candidates, including for the commercialization of any of our product candidates that are approved for marketing outside the United States. Potential collaborators include co-commercialization partners, as well as regional, national and international large and mid-size pharmaceutical companies.

We may have limited control over the amount and timing of resources that our current and any future collaborators dedicate to the development or commercialization of our product candidates. Our ability to generate revenue from these arrangements will depend on our collaborators’ abilities to successfully perform the functions assigned to them in these arrangements. Pursuant to the Commercialization Agreement, we and Indegene will enter into statements of work that will set forth, among other things, the services to be performed by Indegene, the deliverables for such services and the fees to be paid by us. We may be unable to negotiate the terms of the statements of work, including the services to be performed by Indegene or the fees payable by us, on terms acceptable to us, or at all. If we are unable to do so, we will have to seek other collaborations for the commercialization of CTx-1301, which may delay commercialization.

Our current collaborations pose, and any future collaborations involving our product candidates would pose the following risks, including but not limited to:

- we may have to relinquish valuable rights to our intellectual property, future revenue streams, research programs or product candidates, or grant licenses on terms that may not be favorable to us;
- collaborators have significant discretion in determining the efforts and resources that they will apply to these collaborations;

- collaborators may not perform their obligations as expected;
- collaborators may not pursue development and commercialization of any product candidates that achieve regulatory approval or may elect not to continue or renew development or commercialization programs based on clinical trial results, changes in the collaborators' strategic focus or available funding, or external factors, such as an acquisition, that divert resources or create competing priorities;
- collaborators may delay clinical trials, provide insufficient funding for a clinical trial program, stop a clinical trial or abandon a product candidate, repeat or conduct new clinical trials or require a new formulation of a product candidate for clinical testing;
- product candidates discovered in collaboration with us may be viewed by our collaborators as competitive with their own product candidates or products, which may cause collaborators to cease to devote resources to the commercialization of our product candidates;
- a collaborator with marketing and distribution rights to one or more of our product candidates that achieve regulatory approval may not commit sufficient resources to the marketing and distribution of such products;
- disagreements with collaborators, including disagreements over proprietary rights, contract interpretation or the preferred course of development, might cause delays or termination of the research, development or commercialization of product candidates, might lead to additional responsibilities for us with respect to product candidates, or might result in litigation or arbitration, any of which would be time-consuming and expensive;
- collaborators may not properly maintain or defend our or their intellectual property rights or may use our or their proprietary information in such a way as to invite litigation that could jeopardize or invalidate such intellectual property or proprietary information or expose us to potential litigation;
- collaborators may infringe the intellectual property rights of third parties, which may expose us to litigation and potential liability;
- we may be subject to termination fees if we terminate a collaboration; and
- collaborations may be terminated for the convenience of the collaborator and, if terminated, we could be required to raise additional capital to pursue further development or commercialization of the applicable product candidates.

The Commercialization Agreement and any future collaboration agreements may not lead to development or commercialization of product candidates in the most efficient manner or at all. If a present or future collaborator of ours were to be involved in a business combination, the continued pursuit and emphasis on our drug development or commercialization program could be delayed, diminished or terminated.

If we are not able to maintain or establish collaborations, we may have to alter our development and commercialization plans.

Pursuant to the Commercialization Agreement, Indegene will provide us with commercialization services for CTx-1301, including services related to (a) medical affairs & pharmacovigilance; (b) pricing, reimbursement and market access; (c) commercial operations; and (d) marketing.

The development of our product candidates and clinical programs and the potential commercialization will require substantial additional capital. For some of our product candidates, we may need to be able to maintain and further collaborate with co-commercial partners or pharmaceutical companies for the development and/or commercialization of those product candidates.

We face significant competition in seeking appropriate collaborators. Whether we reach additional definitive agreements for a collaboration will depend, among other things, upon our assessment of the collaborator's resources and expertise, the terms and conditions of the proposed collaboration and the proposed collaborator's evaluation of a number of factors. Those factors may include the design or results of clinical trials, the likelihood of approval by the FDA or similar regulatory authorities outside the United States, the potential market for the subject product candidate, the costs and complexities of manufacturing and delivering such product candidate to patients, the potential of competing products, the existence of uncertainty with respect to our ownership of technology, which can exist if there is a challenge to such ownership without regard to the merits of the challenge, and industry and market conditions generally. The collaborator may also consider alternative product candidates or technologies for similar indications that may be available to collaborate on and whether such a collaboration could be more attractive than the one with us for our product candidate.

Pursuant to the Commercialization Agreement, we and Indegene will enter into statements of work that will set forth, among other things, the services to be performed by Indegene, the deliverables for such services and the fees to be paid by us. We may be unable to negotiate the terms of the statements of work, including the services to be performed by Indegene or the fees payable by us, on terms acceptable to us, or at all. If we are unable to do so, we will have to seek other collaborations for the commercialization of CTx-1301, which may delay commercialization.

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

We rely on third parties to perform many essential services for any products that we commercialize, including distribution, customer service, accounts receivable management, cash collection and adverse event reporting. If these third parties fail to perform as expected or to comply with legal and regulatory requirements, our ability to commercialize CTx-1301, CTx-1302, and/or CTx-2103 will be significantly impacted and we may be subject to regulatory sanctions.

Pursuant to the Commercialization Agreement, Indegene will provide us with commercialization services for CTx-1301, including services related to (a) medical affairs & pharmacovigilance; (b) pricing, reimbursement and market access; (c) commercial operations; and (d) marketing.

We may retain additional third-party service providers to perform a variety of functions related to the sale and distribution of any or all of our products, including CTx-1301, CTx-1302, and CTx-2103, if approved, key aspects of which will be out of our direct control. These service providers may provide key services related to distribution, customer service, accounts receivable management and cash collection.

We will substantially rely on Indegene and will substantially rely on any future third-party providers to perform services for us. If these third-party service providers fail to comply with applicable laws and regulations, fail to meet expected deadlines, or otherwise do not carry out their contractual duties to us, our ability to deliver product to meet commercial demand may be significantly impaired. In addition, we may engage third parties to perform various other services for us relating to adverse event reporting, safety database management, fulfillment of requests for medical information regarding our product candidates and related services. If the quality or accuracy of the data maintained by these service providers is insufficient or if they fail to comply with various requirements, we could be subject to regulatory sanctions.

If we are unable to achieve and maintain adequate levels of coverage and reimbursement for our product or product candidates, if approved, their commercial success may be severely hindered.

Successful sales of our product and any product candidates that receive regulatory approval depend on the availability of adequate coverage and reimbursement from third-party payors. Patients who are prescribed medications for the treatment of their conditions generally rely on third-party payors to reimburse all or part of the costs associated with their prescription drugs. Adequate coverage and reimbursement from governmental healthcare programs, such as Medicare and Medicaid, and commercial payors is critical to new product acceptance. Coverage decisions may depend upon clinical and economic standards that disfavor new drug products when more established or lower cost therapeutic alternatives are already available or subsequently become available. Assuming we obtain coverage for a given product, the resulting reimbursement payment rates might not be adequate or may require co-payments that patients find unacceptably high. Patients are unlikely to use our products unless coverage is provided and reimbursement is adequate to cover a significant portion of the cost of our products.

In addition, the market for CTx-1301, CTx-1302, and CTx-2103 will depend significantly on access to third-party payors' drug formularies or lists of medications for which third-party payors provide coverage and reimbursement. The industry competition to be included in such formularies often leads to downward pricing pressures on pharmaceutical companies. Also, third-party payors may refuse to include a particular branded drug in their formularies or otherwise restrict patient access through formulary controls or otherwise to a branded drug when a less costly generic equivalent or other alternative is available.

Third-party payors, whether foreign or domestic, or governmental or commercial, are developing increasingly sophisticated methods of controlling healthcare costs. In addition, in the United States, no uniform policy requirement for coverage and reimbursement for drug products exists among third-party payors. Therefore, coverage and reimbursement for drug products can differ significantly from payor to payor. As a result, the coverage determination process is often a time-consuming and costly process that will require us to provide scientific and clinical support for the use of our products to each payor separately, with no assurance that coverage and adequate reimbursement will be applied consistently or obtained in the first instance.

Further, we believe that future coverage and reimbursement will likely be subject to increased restrictions both in the United States and in international markets. Third party coverage and reimbursement for our product candidates for which we may receive regulatory approval may not be available or adequate in either the United States or international markets, which could have a material adverse effect on our business, results of operations, financial condition and prospects.

Third-party payors may not adequately cover or reimburse consumers for the purchase of our products.

Our future revenues and ability to generate positive cash flow from operations may be affected by the continuing efforts of governments and third-party payors to contain or reduce the costs of healthcare through various means. In certain foreign markets, the pricing of prescription pharmaceuticals is subject to governmental control. In the United States, there has been, and we expect that there will continue to be, a number of federal and state proposals to implement similar governmental controls. We cannot be certain what legislative proposals will be adopted or what actions federal, state or private payors for healthcare goods and services may take in response to any drug pricing reform proposals or legislation. Such reforms may make it difficult to complete the development and testing of our products, and therefore may limit our ability to generate revenues from sales and achieve profitability. Further, to the extent that such reforms may affect our business and collaborators, our ability to commercialize our products may be harmed.

In the United States and elsewhere, sales of prescription pharmaceutical products still depend in large part on the availability of reimbursement to the consumer from third-party payors, such as governmental and private insurance plans. Third-party payors are increasingly challenging the prices charged for medical products. The market for CTx-1301, CTx-1302, and/or CTx-2103 will depend significantly on whether third-party payors provide coverage and reimbursement. Industry competition to be eligible for reimbursement often leads to downward pricing pressures on pharmaceutical products. Also, third-party payors may refuse to reimburse for a particular branded drug or product when a less costly generic equivalent or other alternative is available. In the United States, no uniform policy of coverage and reimbursement for drug products exists among third-party payors. Because each third-party payor individually approves coverage and reimbursement levels, obtaining coverage and adequate reimbursement is a time-consuming and costly process. We would be required to provide scientific and clinical support for the use of our products to each third-party payor separately with no assurance that approval would be obtained. This process could delay the market acceptance of our products and could have a negative effect on our future revenues and operating results. Even if we succeed in bringing CTx-1301, CTx-1302 and/or CTx-2103 to market, we cannot be certain that it would be considered cost effective or that coverage and adequate reimbursement to patients would be available. Patients may be unlikely to use CTx-1301, CTx-1302 and/or CTx-2103 unless coverage is provided, and reimbursement is adequate to cover a significant portion of its cost.

In addition, in many foreign countries, particularly countries within the European Union, the pricing of prescription drugs is subject to government control. In some jurisdictions outside the United States, the proposed pricing for a drug must be approved before it may be lawfully marketed. The requirements governing drug pricing vary widely from country to country. For example, the European Union provides options for its member states to restrict the range of medicinal products for which their national health insurance systems provide reimbursement and to control the prices of medicinal products for human use. A member state may approve a specific price for the medicinal product, or it may instead adopt a system of direct or indirect controls on the profitability of the company placing the medicinal product on the market. Moreover, pricing negotiations with governmental authorities in these countries can take considerable time after the receipt of marketing approval for a product. To obtain reimbursement or pricing approval in countries outside of the United States, we may be required to conduct additional clinical trials that specifically compares the cost-effectiveness of our products CTx-1301, CTx-1302, and/or CTx-2103 to other available therapies. We may face competition for CTx-1301 and/or CTx-1302 from lower-priced products in foreign countries that have placed price controls on pharmaceutical products. In addition, there may be foreign products imported that compete with CTx-1301, CTx-1302, and/or CTx-2103, which could negatively impact our profitability.

We believe CTx-1301, CTx-1302, and CTx-2103 will need to be priced competitively with current therapies to be eligible for full reimbursement in the United States and international markets. If we are unable to obtain coverage of, and adequate payment levels for, CTx-1301, CTx-1302, and/or CTx-2103 from third-party payors, physicians may limit how much or under what circumstances they will prescribe it and patients may decline to purchase it. This in turn could affect our ability to successfully commercialize any or all of our products and harm our business.

If we are unable to support demand for CTx-1301, CTx-1302, and/ or CTx-2103, and any future product candidates, including ensuring that we have adequate capacity to meet increased demand, or we are unable to successfully manage the evolution of our drug delivery technology platform, our business could suffer.

As our volume grows, we will need to extend our platform to support product production at a larger scale within expected turnaround times. We may need additional certified laboratory scientists and technical and manufacturing personnel to process higher volumes of CTx-1301, CTx-1302, and/ or CTx-2103, if approved. We may also need to purchase additional equipment, some of which can take several months or more to procure, setup and validate. There is no assurance that any of these increases in scale, expansion of personnel, equipment, or process enhancements will be successfully implemented, or that we will have adequate space in our facilities to accommodate such required expansion.

Our relationships with customers and third-party payors are subject to applicable anti-kickback, fraud and abuse and other healthcare laws and regulations, which could expose us to criminal sanctions, civil penalties, contractual damages, reputational harm and diminished profits and future earnings.

For our products and any product candidates that obtain regulatory approval and are marketed in the United States, if any, our arrangements with third-party payors and customers may expose us to broadly applicable fraud and abuse and other healthcare laws and regulations that may constrain the business or financial arrangements and relationships through which we market, sell and distribute any products for which we obtain marketing approval. In addition, we may be subject to health information privacy and security regulation by United States, federal and state governments and foreign jurisdictions in which we conduct our business. The laws that may affect our ability to operate include:

- the federal Anti-Kickback Statute, which prohibits, among other things, persons from knowingly and willfully soliciting, receiving, offering or paying remuneration, directly or indirectly, to induce, or in return for, either the referral of an individual, or the purchase or recommendation of an item or service for which payment may be made under a federal healthcare program, such as the Medicare and Medicaid programs; a person or entity does not need to have actual knowledge of the statute or specific intent to violate it in order to have committed a violation;
- federal civil and criminal false claims laws and civil monetary penalty laws, including the federal False Claims Act, which impose criminal and civil penalties against individuals or entities for knowingly presenting, or causing to be presented, to the federal government, including the Medicare and Medicaid programs, claims for payment that are false or fraudulent or making a false statement to avoid, decrease or conceal an obligation to pay money to the federal government; actions may be brought by the government or a whistleblower and may include an assertion that a claim for payment by federal health care programs for items and services which results from a violation of the federal Anti-Kickback Statute constitutes a false or fraudulent claim for purposes of the False Claims Act;
- The federal Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) that imposes criminal and civil liability for executing a scheme to defraud any health care benefit program, or knowingly and willfully falsifying, concealing or covering up a material fact or making any materially false statement in connection with the delivery of or payment for health care benefits, items or services; similar to the United States federal Anti-Kickback Statute, a person or entity does not need to have actual knowledge of the statute or specific intent to violate it in order to have committed a violation; HIPAA, as amended by the Health Information Technology and Clinical Health Act of 2009 (“HITECH”) and their respective implementing regulations, which imposes certain obligations, including mandatory contractual terms, on covered healthcare providers, health plans and healthcare clearinghouses, as well as their business associates, with respect to safeguarding the privacy, security and transmission of individually identifiable health information;
- The Physician Payments Sunshine Act, enacted as part of the PPACA, which requires certain manufacturers of drugs, devices, biologics and medical supplies that are reimbursable under Medicare, Medicaid or the Children’s Health Insurance Program to report annually to CMS information related to payments and other transfers of value to physicians and teaching hospitals, and ownership and investment interests held by physicians and their immediate family members; and
- analogous state and foreign laws and regulations, such as state anti-kickback and false claims laws, which may apply to sales or marketing arrangements and claims involving healthcare items or services reimbursed by non-governmental third-party payors, including private insurers, and state and foreign laws governing the privacy and security of health information in certain circumstances, many of which differ from each other in significant ways and often are not preempted by HIPAA, thus complicating compliance efforts.

Efforts to ensure that our business arrangements with third parties will comply with applicable healthcare laws and regulations may involve substantial costs. It is possible that governmental authorities will conclude that our business practices 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 are found to be in violation of any of these laws or any other governmental regulations that may apply to us, we may be subject to significant civil, criminal and administrative penalties, including, without limitation, damages, fines, imprisonment, exclusion from participation in government funded healthcare programs, such as Medicare and Medicaid, and the curtailment or restructuring of our operations. If any of the physicians or other healthcare providers or entities with whom we expect to do business is found to be not in compliance with applicable laws, they may be subject to criminal, civil or administrative sanctions, including exclusions from participation in government funded healthcare programs.

Product liability lawsuits could divert our resources, result in substantial liabilities and reduce the commercial potential of our products.

We face an inherent risk of product liability claims as a result of the clinical testing of our product candidates despite obtaining appropriate informed consents from our clinical trial participants. We will face an even greater risk if we obtain marketing approval for and commercially sell CTx-1301, CTx-1302 and/or CTx-2103, or any other product candidate. For example, we may be sued if any product that we develop allegedly causes injury or is found to be otherwise unsuitable during clinical testing, manufacturing, marketing or sale. Any such product liability claims may include allegations of defects in manufacturing, defects in design, a failure to warn of dangers inherent in the product, negligence, strict liability or a breach of warranties. Claims could also be asserted under state consumer protection acts. If we cannot successfully defend ourselves against product liability claims, we may incur substantial liabilities or be required to limit commercialization of our product candidates. Regardless of the merits or eventual outcome, liability claims may result in:

- reduced resources for our management to pursue our business strategy;
- decreased demand for our product candidates or products that we may develop;
- injury to our reputation and significant negative media attention;
- withdrawal of clinical trial participants;
- initiation of investigations by regulators;
- product recalls, withdrawals or labeling, marketing or promotional restrictions;
- significant costs to defend resulting litigation;
- substantial monetary awards to trial participants or patients;
- loss of revenue; and
- the inability to commercialize any products that we may develop.

If any of our product candidates are approved for commercial sale, we will be highly dependent upon consumer perceptions of us and the safety and quality of our products. We could be adversely affected if we are subject to negative publicity. We could also be adversely affected if any of our products or any similar products manufactured and distributed by other companies prove to be, or are asserted to be, harmful to patients. Because of our dependence upon consumer perceptions, any adverse publicity associated with illness or other adverse effects resulting from patients' use or misuse of our products or any similar products distributed by other companies could have a material adverse impact on our financial condition or results of operations.

Our product liability insurance coverage may not be adequate to cover any and all liabilities that we may incur.

We currently have \$10.0 million in product liability insurance coverage in the aggregate, which may not be adequate to cover any and all liabilities that we may incur. Insurance coverage is increasingly expensive. We may not be able to maintain insurance coverage at a reasonable cost or in an amount adequate to satisfy any liability that may arise. Large judgments have been awarded in class action lawsuits based on drugs that had unanticipated side effects. A successful product liability claim or series of claims brought against us, particularly if judgments exceed our insurance coverage, could decrease our cash and adversely affect our business. In addition, we may not be able to obtain or maintain sufficient insurance coverage at an acceptable cost or otherwise to protect against potential product liability claims, which could prevent or inhibit the commercial production and sale of our products.

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

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

Although we maintain workers' compensation insurance to cover us for costs and expenses we may incur due to injuries to our employees resulting from the use of hazardous materials or other work-related injuries, this insurance may not provide adequate coverage against potential liabilities. In addition, we may incur substantial costs in order to comply with current or future environmental, health and safety laws and regulations. These current or future laws and regulations may impair our research, development or production efforts. Failure to comply with these laws and regulations also may result in substantial fines, penalties or other sanctions.

Risks Related to Managing Our Growth, Our Employees, and Our Operations

We will need to further increase the size and complexity of our organization in the future, and we may experience difficulties in executing our growth strategy and managing any growth.

Our management, personnel, systems, and facilities currently in place are not adequate to support our business plan and near-term future growth. We will need to further expand our manufacturing team, clinical team, managerial, operational, financial, and other resources to support our planned research, development and commercialization activities.

To manage our operations, growth and various projects effectively requires that we:

- continue to improve our operational, financial, management and regulatory compliance controls and reporting systems and procedures;
- attract and retain sufficient numbers of talented employees;
- develop a marketing, sales and distribution capability;
- manage our commercialization activities for our product candidates effectively and in a cost-effective manner;
- establish and maintain relationships with development and commercialization partners;
- manage our clinical trials effectively;
- manage our third-party supply and manufacturing operations effectively and in a cost-effective manner, while increasing production capabilities for our current product candidates to commercial levels; and
- manage our development efforts effectively while carrying out our contractual obligations to partners and other third parties.

In addition, historically, we have utilized and continue to utilize the services of part-time outside consultants to perform a number of tasks for us, including tasks related to product development and clinical testing. Our growth strategy may also entail expanding our use of consultants to implement these and other tasks going forward. We rely on consultants for certain functions of our business and will need to effectively manage these consultants to ensure that they successfully carry out their contractual obligations and meet expected deadlines. There can be no assurance that we will be able to manage our existing consultants or find other competent outside consultants, as needed, on economically reasonable terms, or at all. If we are not able to effectively manage our growth and expand our organization by hiring new employees and expanding our use of consultants, we might be unable to implement successfully the tasks necessary to execute effectively on our planned research, development and commercialization activities and, accordingly, might not achieve our research, development and commercialization goals.

If we are unable to establish sales and marketing capabilities or enter into agreements with third parties to market and/or sell our product candidates, we may be unable to generate any revenue.

We do not currently have an organization for the sale, marketing or distribution of CTx-1301, CTx-1302, or CTx-2103. As a result, we must build this organization, or enter into a marketing collaboration with a third party, in order to commercialize CTx-1301, CTx-1302, and/ or CTx-2103. The establishment and development of our own sales force in the United States to market CTx-1301, CTx-1302, and/or CTx-2103 will be expensive and time consuming and could delay any product launch. We cannot be certain that we would be able to successfully develop this capacity, and even if we do, the cost of establishing and maintaining such an organization may exceed the benefit of doing so.

There are significant risks involved in building and managing a sales organization, including our ability to hire, retain and incentivize qualified individuals, generate sufficient sales leads, provide adequate training to sales and marketing personnel, effectively manage a geographically dispersed sales and marketing team and successfully negotiate with managed care and third-party payors. Any failure or delay in the development of our internal sales, marketing and distribution capabilities would adversely impact the commercialization of these products.

Pursuant to the Commercialization Agreement, Indegene will provide us with commercialization services for CTx-1301, including services related to (a) medical affairs & pharmacovigilance; (b) pricing, reimbursement and market access; (c) commercial operations; and (d) marketing.

We also may enter into additional strategic partnerships with third parties to commercialize our product candidates.

Pursuant to the Commercialization Agreement, we and Indegene will enter into statements of work that will set forth, among other things, the services to be performed by Indegene, the deliverables for such services and the fees to be paid by us. We may be unable to negotiate the terms of the statements of work, including the services to be performed by Indegene or the fees payable by us, on terms acceptable to us, or at all. If we are unable to do so, we will have to seek other collaborations for the commercialization of CTx-1301, which may delay commercialization. We may also have difficulty establishing relationships with third parties on terms that are acceptable to us, or in all of the regions where we wish to commercialize our products, or at all. If we are unable to establish adequate sales, marketing and distribution capabilities, whether independently or with third parties, we may not be able to generate sufficient product revenue and may not become profitable. We will be competing with many companies that currently have extensive and well-funded marketing and sales operations and/or ingrained distribution channels. Without an internal team or the support of a third party to perform marketing and sales functions, we may be unable to compete successfully against these more established companies.

If we fail to attract and retain management and other key personnel, we may be unable to continue to successfully develop or commercialize our product candidates or otherwise implement our business plan.

Our ability to compete in the highly competitive pharmaceuticals industry depends upon our ability to attract and retain highly qualified managerial, scientific, medical, sales and marketing and other personnel. We are highly dependent on our management and scientific personnel. The loss of the services of any of these individuals could impede, delay or prevent the successful development of our product pipeline, completion of our planned clinical trials, commercialization of our product candidates or in-licensing or acquisition of new assets and could negatively impact our ability to successfully implement our business plan. If we lose the services of any of these individuals, we might not be able to find suitable replacements on a timely basis or at all, and our business could be harmed as a result. In December 2023, two executive officers, including our Chief Financial Officer, and two clinical operations employees resigned. On January 25, 2024, we appointed Ms. Callahan as our Senior Vice President and Chief Financial Officer.

In December 2023, our four independent members of our Board resigned. The two current members of our Board are not independent, and we do not currently have an Audit Committee, a Compensation Committee or a Nominating and Corporate Governance Committee. Because our Board is currently comprised solely of non-independent directors, one of whom is our Chief Executive Officer, we do not receive the benefit of independent oversight over actions being taken. Additionally, the lack of a majority independent board members may make it difficult for us to maintain and develop internal controls, to cure any material weaknesses in internal controls and to raise money in the financial markets. On December 26, 2023, we received a letter from the Staff indicating that, based upon the resignation of three members of our Board on December 12, 2023 and December 13, 2023, we no longer comply with the independent director, audit committee, compensation committee and independent director oversight of director nominations requirements as set forth in Nasdaq Listing Rule 5605 (the “Independent Director Rule”). We are in the process of identifying new directors but there is no assurance that we will be able to attract new directors, maintain a majority independent board or regain compliance with the Independent Director Rule.

We maintain “key man” insurance policies on the lives of specific individuals but not on the lives of all critical employees. In order to retain valuable employees at our company, in addition to salary and cash incentives, we may provide stock options that vest over time. The value to employees of stock options that vest over time will be significantly affected by movements in our stock price that are beyond our control and may at any time be insufficient to counteract offers from other companies.

We might not be able to attract or retain qualified management and other key personnel in the future due to the intense competition for qualified personnel among biotechnology, pharmaceutical and other businesses. We could have difficulty attracting experienced personnel to our company and may be required to expend significant financial resources in our employee recruitment and retention efforts. Many of the other pharmaceutical companies with whom we compete for qualified personnel have greater financial and other resources, different risk profiles and longer histories in the industry than we do. They also may provide more diverse opportunities and better chances for career advancement. If we are not able to attract and retain the necessary personnel to accomplish our business objectives, we may experience constraints that will harm our ability to implement our business strategy and achieve our business objectives.

In addition, we have scientific and clinical advisors who assist us in formulating our development and clinical strategies. These advisors are not our employees and may have commitments to, or consulting or advisory contracts with, other entities that may limit their availability to us. In addition, our advisors may have arrangements with other companies to assist those companies in developing products or technologies that may compete with ours.

Our research and development is focused on discovering and developing product candidates but these product candidates may not make it to the market.

Our development research and clinical development efforts to date have resulted in product candidates, CTx-1301, CTx-1302, for the treatment of ADHD, and CTx-2103, for the treatment of anxiety. As part of our growth strategy, we intend to identify, develop and market additional product candidates. We are exploring various therapeutic opportunities for our pipeline and proprietary technologies. We may spend several years completing our development of any particular current or future internal product candidates, and failure can occur at any stage. We may not be able to develop drugs that are bioequivalent, safe and effective and/or that have commercially significant improvements over already approved drugs. The product candidates to which we allocate our resources may not end up being successful. The success of this strategy depends partly upon our ability to identify, select, discover and acquire promising product candidates and products.

The process of proposing, negotiating and implementing a license or acquisition of a product candidate or approved product is lengthy and complex. Other companies, including some with substantially greater financial, marketing and sales resources, may compete with us for the license or acquisition of product candidates and approved products. We have limited resources to identify and execute the acquisition or in-licensing of third-party products, businesses and technologies and integrate them into our current infrastructure. Moreover, we may devote resources to potential acquisitions or in-licensing opportunities that are never completed, or we may fail to realize the anticipated benefits of such efforts. We may not be able to acquire the rights to additional product candidates on terms that we find acceptable, or at all.

In addition, future acquisitions may entail numerous operational and financial risks, including:

- exposure to unknown liabilities;
- higher than expected acquisition and integration costs; and
- difficulty in combining the operations and personnel of any acquired businesses with our operations and personnel.

Further, any product candidate that we acquire may require additional development efforts prior to commercial sale, including extensive clinical testing and approval by the FDA and other regulatory authorities.

If we do not successfully develop and commercialize product candidates based upon our Precision Timed Release platform technology, we will not be able to obtain product revenue in future periods, which likely would result in significant harm to our financial position and adversely affect our stock price.

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

Our operations to date have been primarily limited to formulating and developing our product candidates and undertaking clinical trials of our product candidates. We have not yet obtained regulatory approvals for any of our product candidates. Consequently, any predictions about our future success or viability may not be as accurate as they could be if we had a longer operating history or approved products on the market. Furthermore, our operating results may fluctuate due to a variety of other factors, many of which are outside of our control and may be difficult to predict, including the following:

- delays in the commencement, enrollment and the timing of clinical testing for our product candidates;
- the timing and success or failure of clinical trials for our product candidates or competing product candidates, or any other change in the competitive landscape of our industry, including consolidation among our competitors or partners;
- any delays in regulatory review and approval of product candidates in clinical development;
- the timing and cost of, and level of investment in, research and development activities relating to our product candidates, which may change from time to time;
- the cost of manufacturing our product candidates, which may vary depending on FDA guidelines and requirements, and the quantity of production;
- our ability to obtain additional funding to develop our product candidates;
- expenditures that we will or may incur to acquire or develop additional product candidates and technologies;
- the level of demand for our product candidates, should they receive approval, which may vary significantly;
- potential side effects of our product candidates that could delay or prevent commercialization or cause an approved drug to be taken off the market;
- the ability of patients or healthcare providers to obtain coverage of or sufficient reimbursement for our product candidates, if approved;
- our dependency on third-party manufacturers to supply or manufacture our product candidates;
- our ability to establish or outsource an effective sales, marketing and distribution infrastructure in a timely manner;
- market acceptance of our product candidates, if approved, and our ability to forecast demand for those product candidates;
- our ability to receive approval and commercialize our product candidates outside of the United States;
- our ability to establish and maintain collaborations, licensing or other arrangements;
- our ability and third parties' abilities to protect intellectual property rights;
- costs related to and outcomes of potential litigation or other disputes;
- our ability to adequately support future growth;
- our ability to attract and retain key personnel to manage our business effectively;
- potential liabilities associated with hazardous materials;
- our ability to maintain adequate insurance policies; and
- future accounting pronouncements or changes in our accounting policies.

Our operating results and liquidity needs could be negatively affected by market fluctuations and economic downturn.

Our operating results and liquidity could be negatively affected by economic conditions generally, both in the United States and elsewhere around the world. The market for discretionary medical products and procedures may be particularly vulnerable to unfavorable economic conditions. Some patients may consider certain of our product candidates to be discretionary, and if full reimbursement for such products is not available, demand for these products may be tied to the discretionary spending levels of our targeted patient populations. Domestic and international equity and debt markets have experienced and may continue to experience heightened volatility and turmoil based on domestic and international economic conditions and concerns. In the event these economic conditions and concerns continue or worsen, and the markets continue to remain volatile, our operating results and liquidity could be adversely affected by those factors in many ways, including weakening demand for certain of our products and making it more difficult for us to raise funds if necessary, and our stock price may decline. Additionally, although we plan to market our products primarily in the United States, our partners have extensive global operations, indirectly exposing us to risk.

Our business and operations would suffer in the event of failures in our internal computer systems.

Despite the implementation of security measures, our internal computer systems and those of our current and any future partners, contractors and consultants are vulnerable to damage from computer viruses, unauthorized access, natural disasters, terrorism, war and telecommunication and electrical failures. While we have not experienced any such material system failure, accident or security breach to date, if such an event were to occur and cause interruptions in our operations, it could result in a material disruption of our manufacturing activities, development programs and our business operations. For example, the loss of manufacturing records or clinical trial data from completed or future clinical trials could result in delays in our regulatory approval efforts and significantly increase our costs to recover or reproduce the data. 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 and the further commercialization and development of our products and product candidates could be delayed.

We are increasingly dependent on information technology, and our systems and infrastructure face certain risks, including cybersecurity and data leakage risks.

Significant disruptions to our information technology systems or breaches of information security could adversely affect our business. In the ordinary course of business, we collect, store and transmit large amounts of confidential information, and it is critical that we do so in a secure manner to maintain the confidentiality and integrity of such confidential information. The size and complexity of our information technology systems, and those of our third-party vendors with whom we contract, make such systems potentially vulnerable to service interruptions and security breaches from inadvertent or intentional actions by our employees, partners or vendors, from attacks by malicious third parties, or from intentional or accidental physical damage to our systems infrastructure maintained by us or by third parties. Maintaining the secrecy of this confidential, proprietary, or trade secret information is important to our competitive business position. While we have taken steps to protect such information and invested in information technology, there can be no assurance that our efforts will prevent service interruptions or security breaches in our systems or the unauthorized or inadvertent wrongful use or disclosure of confidential information that could adversely affect our business operations or result in the loss, dissemination, or misuse of critical or sensitive information. A breach of our security measures or the accidental loss, inadvertent disclosure, unapproved dissemination, misappropriation or misuse of trade secrets, proprietary information, or other confidential information, whether as a result of theft, hacking, fraud, trickery or other forms of deception, or for any other reason, could enable others to produce competing products, use our proprietary technology or information, or adversely affect our business or financial condition. Further, any such interruption, security breach, loss or disclosure of confidential information, could result in financial, legal, business, and reputational harm to us and could have a material adverse effect on our business, financial position, results of operations or cash flow.

Risks Related to Our Intellectual Property

If our intellectual property related to our products or product candidates is not adequate, we may not be able to compete effectively in our market.

We rely upon a combination of patents, trade secret protection and confidentiality agreements to protect the intellectual property related to our products, product candidates and technology. Any disclosure to or misappropriation by third parties of our confidential or proprietary information could enable competitors to duplicate or surpass our technological achievements, thus eroding our competitive position in our market.

Due to legal standards relating to patentability, validity, enforceability and scope of claim, patents covering pharmaceutical and biotechnology inventions involve complex legal, scientific and factual questions. Formulation of drug products such as ours with complex release profiles is an area of intense research, publishing and patenting, which limits the scope of any new patent applications. As a result, our ability to obtain, maintain and enforce patents is uncertain and any rights under any existing patents, or any patents we might obtain or license, may not provide us with sufficient protection for our products and product candidates to afford a commercial advantage against competitive products or processes. The patent applications that we own may fail to result in issued patents in the United States or in foreign countries. Even if patents do successfully issue, third parties may challenge their patentability, validity (e.g., by discovering previously unidentified prior art, or a patent-barring event such as a prior public disclosure, use, sale or offer for sale of the invention), enforceability or scope, which may result in such patents being narrowed, invalidated or held unenforceable. For example, United States patents may be challenged by third parties via *inter partes* review, post grant review, derivation or interference proceedings at the USPTO, and European patents may be challenged via an opposition proceeding at the European Patent Office. Furthermore, if we were to assert our patent rights against a competitor, the competitor could challenge the validity and/or enforceability of the asserted patent rights. Although a granted United States patent is entitled to a statutory presumption of validity, its issuance is not conclusive as to its validity or its enforceability, and it may not provide us with adequate proprietary protection or competitive advantages against competitors with similar products.

If the breadth or strength of protection provided by the patents and patent applications we hold or pursue with respect to our products and product candidates is successfully challenged, we may face unexpected competition that could have a material adverse impact on our business. Even if they are unchallenged, our patents and patent applications may not adequately protect our intellectual property or prevent others from designing around our claims. For example, a third party may develop a competitive product that provides therapeutic benefits similar to our products or product candidates but is sufficiently different to fall outside the scope of our patent protection.

Furthermore, if we encounter delays in our clinical trials or entry onto the market in a particular jurisdiction, the period of time during which we could market a particular product under patent protection would be reduced.

Even where laws provide protection, costly and time-consuming litigation could be necessary to enforce and determine the scope of our proprietary rights, and the outcome of such litigation would be uncertain. If we or one of our future collaborators were to initiate legal proceedings against a third party to enforce a patent covering a product or our technology, the defendant could counterclaim that our patent is invalid and/or unenforceable. In patent litigation in the United States, defendant counterclaims alleging invalidity and/or unenforceability are commonplace. Grounds for a validity challenge could be an alleged failure to meet any of several statutory requirements, including lack of novelty, obviousness, lack of written description, non-enablement or a patent-barring event, such as a public disclosure, use or sale of the invention more than a year before the filing date of the application. Grounds for an unenforceability assertion could, for example, be an allegation that someone connected with prosecution of the patent withheld material information from the USPTO, or made a misleading statement, during prosecution. The outcome following legal assertions of invalidity and unenforceability is unpredictable. With respect to validity, for example, we cannot be certain that there is no invalidating prior art, of which we and the patent examiner were unaware during prosecution, or that a third party challenging one of our patents would not assert that a patent-barring event had occurred. If a plaintiff or a defendant were to prevail on a legal assertion of invalidity and/or unenforceability against one or more of our patents, we would lose at least part, and perhaps all, of the patent protection for one or more of our products or product candidates. Such a loss of patent protection could have a material adverse impact on our business.

Moreover, we may be subject to a third-party pre-issuance submission of prior art to the USPTO, or become involved in reexamination, *inter partes* review, or interference proceedings challenging our patent rights. Patents based on applications that we file in the future may also be subject to derivation and/or post-grant review proceedings. An adverse determination in any such submission, proceeding or litigation could reduce the scope of, or invalidate, our patent rights and allow third parties to commercialize our technology or products and compete directly with us. In addition, if the breadth or strength of protection provided by our patents and patent applications is threatened, it could dissuade companies from collaborating with us to license, develop or commercialize current or future product candidates.

We may not seek to protect our intellectual property rights in all jurisdictions throughout the world, and we may not be able to adequately enforce our intellectual property rights even in the jurisdictions where we seek protection.

Filing, prosecuting and defending patents on product candidates in all countries and jurisdictions throughout the world would be prohibitively expensive, and our intellectual property rights in some countries outside the United States are less extensive than in the United States. In addition, the laws of some foreign countries do not protect intellectual property rights to the same extent as federal and state laws in the United States. Consequently, even where we do elect to pursue patent rights outside the United States, we may not be able to obtain relevant claims and/or we may not be able to prevent third parties from practicing our inventions in all countries outside the United States, or from selling or importing products made using our inventions in and into the United States or other jurisdictions.

Competitors may use our technologies in jurisdictions where we do not pursue and obtain patent protection to develop their own products and further, may possibly export otherwise infringing products to territories where we have patent protection, but enforcement is not as strong as that in the United States. These products may compete with our products and our patents or other intellectual property rights may not be effective or sufficient to prevent them from competing. Even if we pursue and obtain issued patents in particular jurisdictions, our patent claims or other intellectual property rights may not be effective or sufficient to prevent third parties from competing with us.

The laws of some foreign countries do not protect intellectual property rights to the same extent as the laws of the United States. Many companies have encountered significant problems in protecting and defending intellectual property rights in certain foreign jurisdictions. The legal systems of some countries, particularly developing countries, do not favor the enforcement of patents and other intellectual property protection. This could make it difficult for us to stop the infringement of our patents, if obtained, or the misappropriation of our other intellectual property rights. For example, many foreign countries have compulsory licensing laws under which a patent owner must grant licenses to third parties. In addition, many countries limit the enforceability of patents against third parties, including government agencies or government contractors. In these countries, patents may provide limited or no benefit.

Patent protection must ultimately be sought on a country-by-country basis, which is an expensive and time-consuming process with uncertain outcomes. Accordingly, we have, and may in the future, choose not to seek patent protection in certain countries. Furthermore, while we intend to protect our intellectual property rights in certain markets for our products, we cannot ensure that we will be able to initiate or maintain similar efforts in all jurisdictions in which we may wish to market our products. Accordingly, our efforts to protect our intellectual property rights in such countries may be inadequate.

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

The USPTO and various foreign governmental patent agencies require compliance with a number of procedural, documentary, fee payment and other provisions during the patent process. There are situations in which noncompliance can result in abandonment or lapse of a patent or patent application, resulting in partial or complete loss of patent rights in the relevant jurisdiction. In such an event, competitors might be able to enter the market earlier than would otherwise have been the case.

If we are sued for infringing intellectual property rights of third parties, it will be costly and time consuming, and an unfavorable outcome in that litigation would have a material adverse effect on our business.

Our commercial success depends upon our ability and the ability of our collaborators to develop, manufacture, market and sell their approved products and our product candidates and use our proprietary technologies without infringing the proprietary rights of third parties. Numerous United States and foreign issued patents and pending patent applications, which are owned by third parties, exist in the fields in which we are developing product candidates. As the pharmaceutical industry expands and more patents are issued, the risk increases that our products and product candidates may give rise to claims of infringement of the patent rights of others. There may, for example, be issued patents of third parties of which we are currently unaware, that may be infringed by our products or product candidates, which could prevent us from being able to commercialize our products or product candidates, respectively. Because patent applications can take many years to issue, there may be currently pending applications which may later result in issued patents that our products or product candidates may infringe.

The pharmaceutical industry is rife with patent litigation between patent holders and producers of follow-on drug products. The possibility of blocking FDA approval of a competitor's product for up to 30 months provides added incentive to litigate over Orange Book patents, but suits involving non-Orange Book patents are also common in the ADHD space. There have been multiple patent litigations involving nearly all of the medications for treatment of ADHD. This trend may continue and, as a result, we may become party to legal matters and claims arising in the ordinary course of business.

We may be exposed to, or threatened with, future litigation by third parties alleging that our products or product candidates infringe their intellectual property rights. If one of our products or product candidates is found to infringe the intellectual property rights of a third party, we or our collaborators could be enjoined by a court and required to pay damages and could be unable to commercialize the applicable approved products and product candidates unless we obtain a license to the patent. A license may not be available to us on acceptable terms, if at all. In addition, during litigation, the patent holder could obtain a preliminary injunction or other equitable relief which could prohibit us from making, using or selling our approved products, pending a trial on the merits, which may not occur for several years.

There is a substantial amount of litigation involving patent and other intellectual property rights in the pharmaceutical industry generally. If a third-party claims that we or our collaborators infringe its intellectual property rights, we may face a number of issues, including, but not limited to:

- infringement and other intellectual property claims which, regardless of merit, may be expensive and time-consuming to litigate and may divert our management's attention from our core business;
- third parties bringing claims against us may have more resources than us to litigate claims against us;
- substantial damages for infringement, which we may have to pay if a court decides that the product at issue infringes on or violates the third party's rights, and, if the court finds that the infringement was willful, we could be ordered to pay treble damages and the patent owner's attorneys' fees;
- a court prohibiting us from selling our product or any product candidate approved in the future, if any, unless the third party licenses its rights to us, which it is not required to do;
- if a license is available from a third party, we may have to pay substantial royalties, fees or grant cross-licenses to our intellectual property rights; and
- redesigning any of our products and product candidates so they do not infringe, which may not be possible or may require substantial monetary expenditures and time.

Our drug development strategy relies heavily upon the 505(b)(2) regulatory approval pathway, which requires us to certify that we do not infringe upon third-party patents covering approved drugs. Such certifications routinely result in third-party claims of intellectual property infringement, the defense of which would be costly and time consuming, and an unfavorable outcome in any litigation may prevent or delay our development and commercialization efforts which would harm our business.

Our commercial success depends in large part on our avoiding infringement of the patents and proprietary rights of third parties for existing approved drug products. Because we utilize the 505(b)(2) regulatory approval pathway for the approval of our products and product candidates, we rely in whole or in part on studies conducted by third parties related to those approved drug products. As a result, upon filing with the FDA for approval of our product candidates, we will be required to certify to the FDA that either: (1) there is no patent information listed in the FDA's Orange Book with respect to our NDA; (2) the patents listed in the Orange Book have expired; (3) the listed patents have not expired, but will expire on a particular date and approval is sought after patent expiration; or (4) the listed patents are invalid or will not be infringed by the manufacture, use or sale of our proposed drug product. If we certify to the FDA that a patent is invalid or not infringed, or a Paragraph IV certification, a notice of the Paragraph IV certification must also be sent to the patent owner once our 505(b)(2) NDA is accepted for filing by the FDA. The third party may then initiate a lawsuit against us asserting infringement of the patents identified in the notice. The filing of a patent infringement lawsuit within 45 days of receipt of the notice automatically prevents the FDA from approving our NDA until the earliest of 30 months or the date on which the patent expires, the lawsuit is settled, or the court reaches a decision in the infringement lawsuit in our favor. If the third party does not file a patent infringement lawsuit within the required 45-day period, our NDA will not be subject to the 30-month stay. However, even if the third party does not sue within the 45-day time limit, thereby invoking the 30-month stay, it may still challenge our right to market our product upon FDA approval; therefore, some risk of an infringement suit remains even after the expiry of the 45-day limit.

We may be unable to adequately prevent disclosure of trade secrets and other proprietary information.

We rely on trade secrets to protect our proprietary know-how and technological advances, especially where we do not believe patent protection is appropriate or obtainable. However, trade secrets are difficult to protect. We rely in part on confidentiality agreements with our employees, consultants, outside scientific collaborators, sponsored researchers and other advisors to protect our trade secrets and other proprietary information. These agreements may not effectively prevent disclosure of confidential information and may not provide an adequate remedy in the event of unauthorized disclosure of confidential information. In addition, others may independently discover our trade secrets and proprietary information. Costly and time-consuming litigation could be necessary to enforce and determine the scope of our proprietary rights. Failure to obtain or maintain trade secret protection could enable competitors to use our proprietary information to develop products that compete with our products or cause additional, material adverse effects upon our competitive business position.

We may be subject to claims by third parties asserting that our employees or we have misappropriated their intellectual property or claiming ownership of what we regard as our own intellectual property.

Some of our employees were previously employed at other companies, including actual or potential competitors. We may also engage advisors and consultants who are concurrently employed at other organizations or who perform services for other entities. Although we try to ensure that our employees, advisors and consultants do not use the proprietary information or know-how of others in their work for us, we may be subject to claims that we or our employees, advisors, or consultants have used or disclosed intellectual property, including trade secrets or other proprietary information, of any such party's former employer or in violation of an agreement with or legal obligation in favor of another party. Litigation may be necessary to defend against these claims.

In addition, while we generally require our employees, consultants, advisors and contractors who may be involved in the development of intellectual property to execute agreements assigning such intellectual property to us, we may be unsuccessful in executing such an agreement with each party who in fact develops intellectual property that we regard as our own. Our and their assignment agreements may not be self-executing or may be breached, and we may be forced to bring claims against third parties, or defend claims they may bring against us, to determine the ownership of what we regard as our intellectual property. Similarly, we may be subject to claims that an employee, advisor or consultant performed work for us that conflicts with that person's obligations to a third party, such as an employer or former employer, and thus, that the third party has an ownership interest in the intellectual property arising out of work performed for us. Litigation may be necessary to defend against these claims.

If we fail in prosecuting or defending any such claims, in addition to paying monetary damages, we may lose valuable intellectual property rights or personnel. Even if we are successful in prosecuting or defending against such claims, litigation could result in substantial costs and be a distraction to management.

Our decision to seek approval of CTx-1301, CTx-1302, and/or CTx-2103 and other product candidates under 505(b)(2) may increase the risk that patent infringement suits are filed against us, which would delay the FDA's approval of such product candidates.

In connection with any NDA that we file under the 505(b)(2) regulatory pathway, if there are patents that claim the approved drug contained in our product candidates and referenced in our 505(b)(2) NDA, we must certify to the FDA and notify the patent holder that any patents listed for the approved drug in the FDA's Orange Book publication are invalid, unenforceable or will not be infringed by the manufacture, use or sale of our drug. If a patent infringement lawsuit is filed against us within 45 days of its receipt of notice of our certification, the FDA is automatically prevented from approving our 505(b)(2) NDA until the earliest of 30 months, expiration of the patent, settlement of the lawsuit or a court decision in the infringement case that is favorable to us, or such shorter or longer period as may be ordered by a court. Such actions are routinely filed by patent owners. Accordingly, we may invest significant time and expense in the development of our product candidates only to be subject to significant delay and patent litigation before our product candidates may be commercialized. We may not be successful in defending any patent infringement claim. Even if we are found not to infringe, or a plaintiff's patent claims are found invalid or unenforceable, defending any such infringement claim would be expensive and time-consuming, and would delay launch of our products or our other product candidates and distract management from their normal responsibilities.

Risks Related to this Offering, the Securities Markets and Ownership of Our Securities

If we fail to regain compliance with the continued listing requirements of Nasdaq, our common stock and/or warrants may be delisted and the price of our common stock and/or warrants and our ability to access the capital markets could be negatively impacted.

Our common stock and warrants are currently listed for trading on Nasdaq. On May 16, 2023, we received a notice from the Staff stating that we no longer comply with the minimum stockholders' equity requirement of \$2.5 million under the Nasdaq Stock Market Listing Rule 5550(b)(1) (the "Minimum Stockholders' Equity Rule") for continued listing. We submitted a plan of compliance to Nasdaq on June 30, 2023. On July 28, 2023, Nasdaq notified us that it granted an extension until November 13, 2023 to regain compliance with the Minimum Stockholders' Equity Rule, conditioned upon achievement of certain milestones included in the plan of compliance previously submitted to Nasdaq, including a plan to raise additional capital. On November 14, 2023, we received a letter from Nasdaq indicating that, based upon our continued non-compliance with the Minimum Stockholders' Equity Rule, the Staff had determined to delist our securities from Nasdaq, subject to our request for a hearing before the Nasdaq Hearings Panel (the "Panel").

We timely requested a hearing before the Panel and Nasdaq granted our request. At the Panel hearing, which is expected to take place in February 2024, we will submit our plan to regain compliance, as well as our ability to sustain long-term compliance, with all applicable requirements for continued listing on Nasdaq, including compliance with the Minimum Stockholders' Equity Rule and the Independent Director Rule (defined below). The delisting action by the Staff will be stayed pending the hearing and the expiration of any additional extension period granted by the Panel following the Panel hearing. We intend to continue to take definitive steps in an effort to evidence compliance with the Minimum Stockholders' Equity Rule, the Independent Director Rule and other Nasdaq listing requirements; however, there can be no assurance that the Panel will grant our request for continued listing or that we will be able to evidence compliance with the Minimum Stockholders' Equity Rule, the Independent Director Rule and other Nasdaq listing requirements within any extension period that may be granted by the Panel. Based on our current operating plan, we believe that we need to raise approximately \$8 million of additional capital to comply with the Minimum Stockholders' Equity Rule. Even if we regain compliance with the Minimum Stockholders' Equity Rule, to remain listed we will need to evidence the ability to maintain long term compliance with the Minimum Stockholders' Equity Rule. If the net proceeds we receive in this offering is less than such amount, the net proceeds would not bring us into compliance with the Minimum Stockholders' Equity Rule. There are limited ways we can improve our financial condition prior to our hearing before the Panel in order to demonstrate compliance with the Minimum Stockholders' Equity Rule. We may attempt to raise further capital, on less favorable terms, which may result in further dilution to you and our current shareholders. We may be unsuccessful in raising further capital, or otherwise satisfying the Minimum Stockholders' Equity Rule.

On July 28, 2023, we received a notice from Nasdaq indicating that we were not in compliance with the requirement to maintain a minimum bid price of \$1.00 per share for continued listing on Nasdaq. We were provided a compliance period of 180 calendar days from the date of the notice, or until January 24, 2024, to regain compliance with the minimum closing bid requirement, pursuant to Nasdaq Listing Rule 5810(c)(3)(A). On November 30, 2023, we effected a reverse stock split of our common stock, and on December 15, 2023, we received notice from Nasdaq that we have regained compliance with minimum closing bid price requirement. There can be no assurance that we will continue to maintain compliance with the minimum closing bid price requirement or the other Nasdaq listing requirements.

On December 26, 2023, we received a letter from the Staff indicating that, based upon the resignation of three members of our Board on December 12, 2023 and December 13, 2023, we no longer comply with the independent director, audit committee, compensation committee and independent director oversight of director nominations requirements as set forth in Nasdaq Listing Rule 5605 (the "Independent Director Rule"). Our Board currently consists of two directors, neither of whom are independent.

We are in the process of identifying potential new directors and intend to show progress in complying with the Independent Director Rule prior to the Panel hearing. There can be no assurance that we will regain compliance with the Independent Director Rule.

We must satisfy Nasdaq's continued listing requirements, including, among other things, the Minimum Stockholders' Equity Rule and the Independent Director Rule or risk delisting, which could have a material adverse effect on our business. If our common stock and warrants are delisted from Nasdaq, it could materially reduce the liquidity of our common stock and warrants and result in a corresponding material reduction in the price of our common stock and warrants as a result of the loss of market efficiencies associated with Nasdaq and the loss of federal preemption of state securities laws. In addition, delisting could harm our ability to raise capital through alternative financing sources on terms acceptable to us, or at all, and may result in the potential loss of confidence by investors, suppliers, customers and employees and fewer business development opportunities. If our common stock and warrants are delisted, it could be more difficult to buy or sell our common stock and warrants or to obtain accurate quotations, and the price of our common stock and warrants could suffer a material decline. Delisting could also impair our ability to raise capital on acceptable terms, if at all.

This offering is being made on a best efforts basis and we may sell fewer than all of the securities offered hereby and may receive significantly less in net proceeds from this offering, which will provide us only limited working capital

This offering is being made on a best efforts basis and we may sell fewer than all of the securities offered hereby and may receive significantly less in net proceeds from this offering. Assuming that we receive a minimum of \$10.0 million of proceeds from this offering, we believe that the net proceeds from this offering, together with our cash on hand, will satisfy our capital needs until the fourth quarter of 2024 under our current business plan and assuming that we receive \$5.0 million of proceeds from this offering, we believe that the net proceeds from this offering, together with our cash on hand, will satisfy our capital needs until the second quarter of 2024 under our current business plan. Following this offering, we will need to raise additional capital to fund our operations and continue to support our planned development and commercialization activities.

Because management has broad discretion as to the use of the net proceeds from this offering, you may not agree with how we use them, and such proceeds may not be applied successfully.

Our management will have considerable discretion over the use of proceeds from this offering. We currently intend to use the net proceeds from this offering for continued research and development and commercialization activities for CTx-1301, and for working capital, capital expenditures, and general corporate purposes, including investing further in research and development efforts. However, our management will have broad discretion in the application of the net proceeds from this offering and could spend the proceeds in ways that do not necessarily improve our operating results or enhance the value of our securities, or that you otherwise do not agree with. You will be relying on the judgment of our management concerning these uses and you will not have the opportunity, as part of your investment decision, to assess whether the proceeds are being used appropriately. The failure of our management

to apply these funds effectively could, among other things, result in unfavorable returns and uncertainty about our prospects, each of which could cause the price of our securities to decline.

If you purchase securities in this offering, you will suffer immediate dilution of your investment.

You will incur immediate and substantial dilution as a result of this offering. The public offering price per share of common stock and accompanying warrants and the public offering price per pre-funded warrant and accompanying warrants will be substantially higher than the as adjusted net tangible book value per share of our common stock after giving effect to this offering. Therefore, if you purchase securities in this offering, you will pay a price per share of common stock you acquire that substantially exceeds our pro forma net tangible book value per share after this offering. Based on an assumed public offering price of \$4.35 per share of common stock and accompanying warrants (the last reported sale price of our common stock on Nasdaq on January 24, 2024) and our net tangible book deficit as of September 30, 2023, you will experience immediate dilution of \$1.16 per share, representing the difference between our pro forma as adjusted net tangible book value per share after giving effect to this offering and the assumed public offering price.

There is no public market for the pre-funded warrants or warrants offered by us.

There is no established public trading market for the pre-funded warrants or warrants, and we do not expect such a market to develop. In addition, we do not intend to apply to list the pre-funded warrants or warrants on any national securities exchange or other nationally recognized trading system. Without an active trading market, the liquidity of the pre-funded warrants and warrants will be limited.

Holders of pre-funded warrants and warrants purchased in this offering will have no rights as common stockholders until such holders exercise their pre-funded warrants or warrants and acquire our common stock.

Until holders of the pre-funded warrants and warrants acquire shares of our common stock upon exercise thereof, such holders will have no rights with respect to the shares of our common stock underlying the pre-funded warrants and warrants. Upon exercise of the pre-funded warrants and warrants, the holders will be entitled to exercise the rights of a common stockholder only as to matters for which the record date occurs after the exercise date.

The warrants are speculative in nature.

The warrants do not confer any rights of common stock ownership on their holders, such as voting rights or the right to receive dividends, but rather merely represent the right to acquire shares of common stock at a fixed price for a limited period of time. Moreover, following this offering, the market value of the warrants, if any, will be uncertain and there can be no assurance that the market value of the warrants will equal or exceed their imputed offering price. The warrants will not be listed or quoted for trading on any market or exchange. There can be no assurance that the market price of our common stock will ever equal or exceed the exercise price of the warrants, and consequently, the warrants may expire valueless.

The warrants are not exercisable until stockholder approval, provided however, if the Pricing Conditions are met, the warrants will be exercisable upon issuance.

The Series A warrants will have an exercise price of \$ _____ per share (100% of the combined public offering price per share of common stock and accompanying warrants) and will be exercisable beginning on the effective date of the Warrant Stockholder Approval, provided however, if the Pricing Conditions are met, the Series A warrants will be exercisable upon issuance (the “Initial Exercise Date”). The Series A warrants will expire on the five-year anniversary of the Initial Exercise Date. The Series B warrants will have an exercise price of \$ _____ per share (100% of the combined public offering price per share of common stock and accompanying warrants) and will be exercisable beginning on the Initial Exercise Date. The Series B warrants will expire on the two-year anniversary of the Initial Exercise Date.

While we intend to promptly seek Warrant Stockholder Approval, there is no guarantee that the Warrant Stockholder Approval will ever be obtained. If we are unable to obtain the Warrant Stockholder Approval, the warrants may have no value.

Purchasers who purchase our securities in this offering pursuant to a securities purchase agreement may have rights not available to purchasers that purchase without the benefit of a securities purchase agreement.

In addition to rights and remedies available to all purchasers in this offering under federal securities and state law, the purchasers that enter into a securities purchase agreement will also be able to bring claims of breach of contract against us. The ability to pursue a claim for breach of contract provides those investors with the means to enforce the covenants uniquely available to them under the securities purchase agreement including: (i) timely delivery of shares; (ii) agreement to not enter into variable rate financings for one year from closing, subject to certain exceptions; (iii) agreement to not enter into any financings for 60 days from closing; and (iv) indemnification for breach of contract.

This is a best efforts offering, with no minimum amount of securities is required to be sold, and we may not raise the amount of capital we believe is required for our business plans, including our near-term business plans.

The placement agent has agreed to use its reasonable best efforts to solicit offers to purchase the securities in this offering. The placement agent has no obligation to buy any of the securities from us or to arrange for the purchase or sale of any specific number or dollar amount of the securities. There is no required minimum number of securities that must be sold as a condition to completion of this offering. Because there is no minimum offering amount required as a condition to the closing of this offering, the actual offering amount, placement agent fees and proceeds to us are not presently determinable and may be substantially less than the maximum amounts set forth above. We may sell fewer than all of the securities offered hereby, which may significantly reduce the amount of proceeds received by us, and investors in this offering will not receive a refund in the event that we do not sell an amount of securities sufficient to support our continued operations, including our near-term continued operations. Thus, we may not raise the amount of capital we believe is required for our operations in the short-term and may need to raise additional funds, which may not be available or available on terms acceptable to us.

Because there is no minimum required for the offering to close, investors in this offering will not receive a refund in the event that we do not sell an amount of securities sufficient to pursue the business goals outlined in this prospectus.

We have not specified a minimum offering amount nor have or will we establish an escrow account in connection with this offering. Because there is no escrow account and no minimum offering amount, investors could be in a position where they have invested in our company, but we are unable to fulfill our objectives due to a lack of interest in this offering. Further, because there is no escrow account in operation and no minimum investment amount, any proceeds from the sale of securities offered by us will be available for our immediate use, despite uncertainty about whether we would be able to use such funds to effectively implement our business plan. Investor funds will not be returned under any circumstances whether during or after the offering.

An active trading market for our common stock or warrants may not be sustained.

An active trading market for our common stock or warrants may not be sustained. The lack of an active market for our common stock or warrants may impair investors' ability to sell their common stock or warrants at the time they wish to sell them or at a price that they consider reasonable, may reduce the fair market value of their shares of common stock or warrants and may impair our ability to raise capital to continue to fund operations by selling securities and may impair our ability to acquire additional intellectual property assets by using our securities as consideration.

The prices of our securities may be volatile, which could subject us to securities class action litigation and our stockholders could incur substantial losses.

The market price for our common stock and warrants may be volatile and subject to wide fluctuations in response to factors including the following:

- actual or anticipated fluctuations in our quarterly or annual operating results;
- actual or anticipated changes in the pace of our corporate achievements or our growth rate relative to our competitors;
- failure to meet or exceed financial estimates and projections of the investment community or that we provide to the public;
- issuance of new or updated research or reports by securities analysts;
- share price and volume fluctuations attributable to inconsistent trading volume levels of our common stock or warrants;
- additions or departures of key management or other personnel;
- disputes or other developments related to proprietary rights, including patents, litigation matters, and our ability to obtain patent protection for our technologies;
- announcement or expectation of additional debt or equity financing efforts;
- sales of our common stock or warrants by us, our insiders or our other stockholders; and
- general economic, market or political conditions in the United States or elsewhere (including, without limitation, conditions arising out of the COVID-19 pandemic).

In particular, the market prices of clinical-stage companies like ours have been highly volatile due to factors, including, but not limited to:

- any delay or failure in a clinical trial for our product candidates or receive approval from the FDA and other regulatory agents;
- developments or disputes concerning our product's intellectual property rights;
- our or our competitors' technological innovations;
- fluctuations in the valuation of companies perceived by investors to be comparable to us;
- announcements by us or our competitors of significant contracts, acquisitions, strategic partnerships, joint ventures, capital commitments, new technologies or patents;
- failure to complete significant transactions or collaborate with vendors in manufacturing our product; and
- proposals for legislation that would place restrictions on the price of medical therapies.

These and other market and industry factors may cause the market price and demand for our common stock and warrants to fluctuate substantially, regardless of our actual operating performance, which may limit or prevent investors from readily selling their shares of common stock or warrants and may otherwise negatively affect the liquidity of our common stock and warrants. In addition, the stock market in general, and Nasdaq and emerging growth companies in particular, have experienced extreme price and volume fluctuations that have often been unrelated or disproportionate to the operating performance of these companies. In the past, when the market price of a security has been volatile, holders of that security have instituted securities class action litigation against the company that issued the security. If any of our stockholders brought a lawsuit against us, we could incur substantial costs defending the lawsuit. Such a lawsuit could also divert the time and attention of our management.

We are an “emerging growth company,” and will be able take advantage of reduced disclosure requirements applicable to “emerging growth companies,” which could make our securities less attractive to investors.

We are an “emerging growth company,” as defined in the JOBS Act and, for as long as we continue to be an “emerging growth company,” we intend to take advantage of certain exemptions from various reporting requirements applicable to other public companies but not to “emerging growth companies,” including, but not limited to, not being required to comply with the auditor attestation requirements of Section 404 of the Sarbanes-Oxley Act, reduced disclosure obligations regarding executive compensation in our periodic reports and proxy statements, and exemptions from the requirements of holding a nonbinding advisory vote on executive compensation and stockholder approval of any golden parachute payments not previously approved. We could be an “emerging growth company” for up to five years, or until the earliest of (i) the last day of the first fiscal year in which our annual gross revenues exceed \$1.235 billion, (ii) the date that we become a “large accelerated filer” as defined in Rule 12b-2 under the Exchange Act, or (iii) the date on which we have issued more than \$1 billion in non-convertible debt during the preceding three year period.

We intend to take advantage of these reporting exemptions described above until we are no longer an “emerging growth company.” Under the JOBS Act, “emerging growth companies” can also delay adopting new or revised accounting standards until such time as those standards apply to private companies. We have irrevocably elected to avail ourselves of this exemption from new or revised accounting standards and, therefore, we will not be subject to the same new or revised accounting standards as other public companies that are not “emerging growth companies.”

We cannot predict if investors will find our securities less attractive if we choose to rely on these exemptions. If some investors find our securities less attractive as a result of any choices to reduce future disclosure, there may be a less active trading market for our securities and the price of our common stock and warrants may be more volatile.

As a public company, we are obligated to develop and maintain proper and effective controls over financial reporting. If we fail to maintain proper and effective internal controls over financial reporting in the future, our ability to produce accurate and timely financial statements could be impaired, which could harm our operating results, investors’ views of us and, as a result, the value of our securities.

Section 404 of the Sarbanes-Oxley Act requires that we evaluate and determine the effectiveness of our internal controls over financial reporting and provide a management report on internal control over financial reporting. When we lose our status as an “emerging growth company,” as defined in the JOBS Act, and reach an accelerated filer threshold, our independent registered public accounting firm will be required to attest to the effectiveness of our internal control over financial reporting. However, for so long as we remain an emerging growth company, we intend to take advantage of an exemption available to emerging growth companies from these auditor attestation requirements. The rules governing the standards that must be met for management to assess our internal control over financial reporting are complex and require significant documentation, testing, and possible remediation. To comply with the requirements of being a reporting company under the Exchange Act, we will need to upgrade our systems including information technology; implement additional financial and management controls, reporting systems, and procedures; and hire additional accounting and finance staff. If we or, if required, our auditors are unable to conclude that our internal control over financial reporting is effective, investors may lose confidence in our financial reporting, and the trading price of our common stock or warrants may decline.

We cannot assure you that there will not be material weaknesses or significant deficiencies in our internal control over financial reporting in the future. Any failure to maintain internal control over financial reporting could severely inhibit our ability to accurately report our financial condition, results of operations or cash flows. If we are unable to conclude that our internal control over financial reporting is effective, or if our independent registered public accounting firm determines we have a material weakness or significant deficiency in our internal control over financial reporting once that firm begins its Section 404 reviews, we could lose investor confidence in the accuracy and completeness of our financial reports, the market price of our common stock or warrants could decline, and we could be subject to sanctions or investigations by Nasdaq, the SEC, or other regulatory authorities. Failure to remedy any material weakness or significant deficiencies in our internal control over financial reporting, or to implement or maintain other effective control systems required of public companies, could also restrict our future access to the capital markets.

We will incur significantly increased costs as a result of and devote substantial management time to operating as a public company.

As public company, we will incur significant legal, accounting and other expenses. For example, we will be subject to the reporting requirements of the Securities Exchange Act of 1934, as amended, and will be required to comply with the applicable requirements of the Sarbanes-Oxley Act and the Dodd-Frank Wall Street Reform and Consumer Protection Act, as well as rules and regulations subsequently implemented by the SEC, including the establishment and maintenance of effective disclosure and financial controls, changes in corporate governance practices and required filing of annual, quarterly and current reports with respect to our business and operating results. These requirements will increase our legal and financial compliance costs and will make some activities more time-consuming and costly. In addition, our management and other personnel will need to divert attention from operational and other business matters to devote substantial time to these public company requirements. We will also need to hire additional accounting and financial staff with appropriate public company experience and technical accounting knowledge and may need to establish an internal audit function. We also expect that operating as a public company will make it more expensive for us to obtain director and officer liability insurance, and we may be required to accept reduced coverage or incur substantially higher costs to obtain coverage. This could also make it more difficult for us to attract and retain qualified people to serve on our Board, our board committees or as executive officers. In addition, after we no longer qualify as an “emerging growth company,” as defined under the JOBS ACT we expect to incur additional management time and cost to comply with the more stringent reporting requirements applicable to companies that are deemed accelerated filers or large accelerated filers, including complying with the auditor attestation requirements of Section 404 of the Sarbanes-Oxley Act. We are just beginning the process of compiling the system and processing documentation needed to comply with such requirements. We may not be able to complete our evaluation, testing and any required remediation in a timely fashion. In that regard, we currently do not have an internal audit function, and we will need to hire or contract for additional accounting and financial staff with appropriate public company experience and technical accounting knowledge.

We cannot predict or estimate the amount of additional costs we may incur as a result of becoming a public company or the timing of such costs.

If securities or industry analysts do not publish research or publish inaccurate or unfavorable research about our business, our stock price and trading volume could decline.

The trading market for our common stock and warrants will depend in part on the research and reports that securities or industry analysts publish about us or our business. We currently have limited research coverage by securities and industry analysts. If we fail to maintain adequate coverage by securities or industry analysts, the trading price for our stock could be negatively impacted. If one or more of the analysts who covers us downgrades our stock or publishes inaccurate or unfavorable research about our business, our stock price would likely decline. If one or more of these analysts ceases coverage of us or fails to publish reports on us regularly, demand for our stock could decrease, which could cause our stock price and trading volume to decline.

Future sales of our common stock, warrants, or securities convertible into our common stock may depress our stock price.

The price of our common stock or warrants could decline as a result of sales of a large number of shares of our common stock or warrants or the perception that these sales could occur. These sales, or the possibility that these sales may occur, also might make it more difficult for us to sell equity securities in the future at a time and at a price that we deem appropriate.

In addition, in the future, we may issue additional shares of common stock, warrants or other equity or debt securities convertible into common stock in connection with a financing, acquisition, litigation settlement, employee arrangements or otherwise. Any such issuances could result in substantial dilution to our existing stockholders and could cause the price of our common stock or warrants to decline. WFIA holds pre-funded warrants to purchase 1,028,955 shares of our common stock. Upon any exercise of such pre-funded warrants, your ownership interest in our company will be diluted.

Anti-takeover provisions contained in our certificate of incorporation and bylaws, as well as provisions of Delaware law, could impair a takeover attempt.

Our amended and restated certificate of incorporation, bylaws and Delaware law contain provisions which could have the effect of rendering more difficult, delaying or preventing an acquisition deemed undesirable by our Board. Our corporate governance documents include provisions:

- classifying our Board into three classes;
- authorizing “blank check” preferred stock, which could be issued by our Board without stockholder approval and may contain voting, liquidation, dividend, and other rights superior to our common stock;
- limiting the liability of, and providing indemnification to, our directors and officers;
- limiting the ability of our stockholders to call and bring business before special meetings;
- requiring advance notice of stockholder proposals for business to be conducted at meetings of our stockholders and for nominations of candidates for election to our Board;
- controlling the procedures for the conduct and scheduling of Board and stockholder meetings; and
- providing our Board with the express power to postpone previously scheduled annual meetings and to cancel previously scheduled special meetings.

These provisions, alone or together, could delay or prevent hostile takeovers and changes in control or changes in our management.

As a Delaware corporation, we are also subject to provisions of Delaware law, including Section 203 of the Delaware General Corporation law, which prevents some stockholders holding more than 15% of our outstanding common stock from engaging in certain business combinations without approval of the holders of substantially all of our outstanding common stock.

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

We do not anticipate paying any cash dividends on our common stock in the foreseeable future.

We do not anticipate paying any cash dividends on our common stock in the foreseeable future. We currently intend to retain any future earnings to finance the operation and expansion of our business, and we do not expect to declare or pay any dividends in the foreseeable future. Consequently, stockholders must rely on sales of their common stock and warrants after price appreciation, which may never occur, as the only way to realize any future gains on their investment. There is no guarantee that shares of our common stock or warrants will appreciate in value or even maintain the price at which stockholders have purchased their shares or warrants.

Our directors, executive officers and principal stockholders have substantial control over us and could delay or prevent a change of corporate control.

As of January 25, 2024, our directors, current executive officers and holders of more than 5% of our common stock, together with their affiliates, beneficially own, in the aggregate, approximately 27% of our outstanding common stock. As a result, these stockholders, acting together, would have the ability to control the outcome of matters submitted to our stockholders for approval, including the election of directors and any merger, consolidation or sale of all or substantially all of our assets. In addition, these stockholders, acting together, would have the ability to control the management and affairs of our company. Accordingly, this concentration of ownership could harm the market price of our common stock and warrants by:

- delaying, deferring or preventing a change of control of us;
- impeding a merger, consolidation, takeover or other business combination involving us; or
- discouraging a potential acquiror from making a tender offer or otherwise attempting to obtain control of us.

See “Security Ownership of Certain Beneficial Owners and Management” below for more information regarding the ownership of our outstanding stock by our executive officers, directors and holders of more than 5% of our common stock, together with their affiliates.

Our amended and restated certificate of incorporation designates the Court of Chancery of the State of Delaware as the sole and exclusive forum for certain types of actions and proceedings that may be initiated by our stockholders, which could limit our stockholders’ ability to obtain a favorable judicial forum for disputes with us or our directors, officers or other employees.

Our amended and restated certificate of incorporation requires that, unless we consent in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware will, to the fullest extent permitted by law, be the sole and exclusive forum for each of the following:

- any derivative action or proceeding brought on our behalf;
- any action asserting a claim for breach of any fiduciary duty owed by any director, officer or other employee of ours to the Company or our stockholders;
- any action asserting a claim against us or any director or officer of ours arising pursuant to, or a claim against us or any of our directors or officers, with respect to the interpretation or application of any provision of, the DGCL, our certificate of incorporation or bylaws; or
- any action asserting a claim governed by the internal affairs doctrine;

provided, that, if and only if the Court of Chancery of the State of Delaware dismisses any of the foregoing actions for lack of subject matter jurisdiction, any such action or actions may be brought in another state court sitting in the State of Delaware.

The exclusive forum provision is limited to the extent permitted by law, and it will not apply to claims arising under the Exchange Act or for any other federal securities laws which provide for exclusive federal jurisdiction.

Furthermore, Section 22 of the Securities Act creates concurrent jurisdiction for federal and state courts over all such Securities Act actions. Accordingly, both state and federal courts have jurisdiction to entertain such claims. To prevent having to litigate claims in multiple jurisdictions and the threat of inconsistent or contrary rulings by different courts, among other considerations, our amended and restated certificate of incorporation provides that the federal district courts of the United States of America will be the exclusive forum for resolving any complaint asserting a cause of action arising under the Securities Act. While the Delaware courts have determined that such choice of forum provisions are facially valid, a stockholder may nevertheless seek to bring such a claim arising under the Securities Act against us, our directors, officers, or other employees in a venue other than in the federal district courts of the United States of America. In such instance, we would expect to vigorously assert the validity and enforceability of the exclusive forum provisions of our amended and restated certificate of incorporation.

Although we believe this provision benefits us by providing increased consistency in the application of Delaware law in the types of lawsuits to which it applies, this provision may limit or discourage a stockholder's ability to bring a claim in a judicial forum that it finds favorable for disputes with us or our directors, officers or other employees, which may discourage such lawsuits against us and our directors, officers and other employees and may result in increased costs for investors to bring a claim. Alternatively, if a court were to find the choice of forum provision contained in our amended and restated certificate of incorporation to be inapplicable or unenforceable in an action, we may incur additional costs associated with resolving such action in other jurisdictions, which could adversely affect our business and financial condition.

We note that there is uncertainty as to whether a court would enforce the provision and that investors cannot waive compliance with the federal securities laws and the rules and regulations thereunder. Although we believe this provision benefits us by providing increased consistency in the application of Delaware law in the types of lawsuits to which it applies, the provision may have the effect of discouraging lawsuits against our directors and officers.

CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS

This prospectus may contain certain forward-looking statements that involve substantial risks and uncertainties. In some cases, you can identify forward-looking statements by terms such as “may,” “will,” “should,” “expect,” “plan,” “anticipate,” “could,” “intend,” “target,” “project,” “estimate,” “believe,” “estimate,” “predict,” “potential” or “continue” or the negative of these terms or other similar expressions intended to identify statements about the future. These statements speak only as of the date of this prospectus and involve known and unknown risks, uncertainties and other important factors that may cause our actual results, performance or achievements to be materially different from any future results, performance or achievements expressed or implied by the forward-looking statements. We have based these forward-looking statements largely on our current expectations and projections about future events and financial trends that we believe may affect our business, financial condition and results of operations. These forward-looking statements include, without limitation, statements about the following:

- our ability to regain compliance with the continued listing requirements of Nasdaq;
- our lack of operating history and need for additional capital;
- our plans to develop and commercialize our product candidates;
- the timing of our planned clinical trials for CTx-1301, CTx-1302, and CTx-2103;
- the timing of our NDA submissions for CTx-1301, CTx-1302, and CTx-2103;
- the timing of and our ability to obtain and maintain regulatory approvals for CTx-1301, CTx-1302, CTx-2103, or any other future product candidate;
- the clinical utility of our product candidates;
- our commercialization, marketing and manufacturing capabilities and strategy;
- our expected use of cash;
- our competitive position and projections relating to our competitors or our industry;
- our ability to identify, recruit, and retain key personnel;
- the impact of laws and regulations;
- our expectations regarding the time during which we will be an emerging growth company under the JOBS Act;
- our plans to identify additional product candidates with significant commercial potential that are consistent with our commercial objectives; and
- our estimates regarding future revenue and expenses.

Because forward-looking statements are inherently subject to risks and uncertainties, some of which cannot be predicted or quantified and some of which are beyond our control, you should not rely on these forward-looking statements as predictions of future events. The events and circumstances reflected in our forward-looking statements may not be achieved or occur and actual results could differ materially from those projected in the forward-looking statements. You should refer to the “Risk Factors” section of this prospectus for a discussion of important factors that may cause our actual results to differ materially from those expressed or implied by our forward-looking statements. Moreover, we operate in an evolving environment. New risk factors and uncertainties may emerge from time to time, and it is not possible for management to predict all risk factors and uncertainties. As a result of these factors, we cannot assure you that the forward-looking statements in this prospectus will prove to be accurate. Except as required by applicable law, we do not plan to publicly update or revise any forward-looking statements contained herein, whether as a result of any new information, future events, changed circumstances or otherwise. You should, however, review the factors and risks and other information we describe in the reports we will file from time to time with the SEC after the date of this prospectus.

You should read this prospectus, including the financial statements and notes to the financial statements included herein, with the understanding that our actual future results may be materially different from what we expect. We qualify all of our forward-looking statements by these cautionary statements.

MARKET PRICE AND DIVIDEND INFORMATION

Market Information

Our common stock trades on Nasdaq under the symbol “CING.”

Holders of Record

As of January 5, 2024, we had 206 holders of record of our common stock. The actual number of holders of our common stock is greater than this number of record holders and includes stockholders who are beneficial owners, but whose shares are held in street name by brokers or held by other nominees. This number of holders of record also does not include stockholders whose shares may be held in trust by other entities.

Dividend Policy

Except with respect to the stock dividend that was effective on September 20, 2021 for the purpose of establishing the correct number of shares outstanding based upon our valuation prior to our initial public offering (“IPO”), we have never declared or paid any dividends on our common stock. We currently intend to retain all available funds and any future earnings, if any, to fund the development and expansion of our business, and we do not anticipate paying any cash dividends in the foreseeable future. Any future determination to pay dividends will be made at the discretion of our Board.

BUSINESS

Overview

We are a biopharmaceutical company using our proprietary Precision Timed Release™ (PTR™) drug delivery platform technology to build and advance a pipeline of next-generation pharmaceutical products designed to improve the lives of patients suffering from frequently diagnosed conditions characterized by burdensome daily dosing regimens and suboptimal treatment outcomes. With an initial focus on the treatment of Attention Deficit/Hyperactivity Disorder (“ADHD”) and anxiety, we are identifying and evaluating additional therapeutic areas where our PTR technology may be employed to develop future product candidates. Our PTR platform incorporates a proprietary Erosion Barrier Layer (EBL) designed to allow for the release of drug substance at specific, pre-defined time intervals, unlocking the potential for once-daily, multi-dose tablets.

We are targeting the ADHD treatment market, with an estimated US market size of over \$23 billion as of November 2023, of which \$18.6 billion is attributable to stimulants. Stimulants are the most commonly prescribed class of medications for ADHD and account for approximately 88% of all ADHD medication prescriptions in the United States. By contrast, non-stimulant medications are typically employed only in the second-line or adjunctive therapy setting and accounting for approximately 12% of all ADHD medication prescriptions. Extended-release, or long-acting, dosage forms of stimulant medications are most frequently deployed as the first-line treatment for ADHD and constitute approximately \$16 billion of the overall ADHD market spend and accounting for 54% of all stimulant prescriptions. Most of these extended-release dosage forms are approved for once-daily dosing in the morning and were designed to eliminate the need for re-dosing during the day. However, with the current ‘once-daily’ extended-release dosage forms, most patients still receive a second or “booster” dose for administration later in the day (typically in the early afternoon) to achieve active-day coverage and suffer from a multitude of unwanted side effects as a result. We believe there is a significant, unmet need within the current treatment paradigm for true once-daily ADHD stimulant medications with a duration that provides entire active-day coverage combined with an improved side effect profile to better serve the numerous unmet needs of patients.

Our two proprietary, first-line stimulant medications: CTx-1301 (dexamethylphenidate) and CTx-1302 (dextroamphetamine), are being developed for the treatment of ADHD across all three patient segments: children (ages 6 -12), adolescents (ages 13-17), and adults (ages 18+). Both CTx-1301 and CTx-1302 are designed to address the key shortcomings of currently approved stimulant therapies by: providing an immediate onset of action (within 30 minutes); offering entire ‘active-day’ duration; eliminating the need for ‘booster/recovery’ doses of additional stimulant medications; minimizing or eliminating the rebound/crash symptoms associated with early medication ‘wear-off;’ and providing favorable tolerability with a controlled descent of drug blood levels. Furthermore, by eliminating the ‘booster’ dose used by up to 60% of ADHD patients in conjunction with their primary medication, we believe our product candidates will provide important societal and economic benefits: reducing the abuse and diversion associated with short-acting stimulant medications; allowing physicians to prescribe one medication versus two; allowing patients to pay for one medication versus two; and allowing payers to reimburse one medication versus two.

We completed a proof-of-concept trial in human subjects to validate our PTR platform and in October 2020, announced positive results from a Phase 1/2 study of CTx-1301 in ADHD patients establishing tolerability, comparative bioavailability, and dose proportionality of CTx-1301 versus Focalin® XR. In order to meet the pharmacology requirement for the CTx-1301 NDA submission, we completed a food effect study in October 2022, which demonstrated that CTx-1301 can be taken with or without food.

A Phase 3 adult dose-optimization study to assess the efficacy and safety, along with onset and duration, of CTx-1301 in adults with ADHD was initiated in December 2022 and completed in June 2023. Results were presented at the 2023 Psych Congress and will be presented at the 2024 American Professional Society of ADHD and Related Disorders (APSARD) in January 2024. This Phase 3 CTx-1301 study (NCT05631626) assessed efficacy and safety along with onset and duration of CTx-1301 in 21 adults (age range: 18-55 years) with ADHD in an adult laboratory classroom setting. It did not achieve statistical significance on the primary efficacy endpoint but CTx-1301 demonstrated a trend toward significance in improving Permanent Product Measure of Performance (“PERMP”) scores compared to placebo. Clinical Global Impression Scale (“CGI-S”) scores with CTx-1301 compared to placebo also showed significant improvements that were indeed statistically significant for this secondary endpoint. The treatment effect size of CTx-1301 in this trial was notable – starting at 30 minutes and demonstrated the ability of CTx-1301 to improve upon ADHD symptoms in patients over an entire active day.

In addition, we initiated two CTx-1301 Phase 3 clinical studies in pediatric and adolescent patients- a fixed dose study (NCT05286762) and a dose-optimized onset and duration study in a laboratory classroom setting (NCT05924594) – in the third quarter of 2023. Based on guidance received from the FDA regarding our clinical program for CTx-1301, we stopped enrollment in these two studies. All enrolled patients in these studies can complete the study and data will be reported accordingly. Additionally, based on this guidance, we expect to submit the NDA for CTx-1301 in the first half of 2025 under the Section 505(b)(2) pathway with Focalin® XR as the reference listed drug, using its efficacy and safety data on file with the FDA as a basis for approval, together with bioavailability/bioequivalence data and efficacy/safety data from our CTx-1301 clinical program. If we receive FDA approval for CTx-1301, we may conduct Phase 4 trials.

We plan to initiate the clinical plan for CTx-1302 (dextroamphetamine), our second investigational asset for the treatment of ADHD, as soon as 2025, pending additional capital resources.

We believe that our PTR platform has the potential to provide patients and physicians with differentiated pharmaceutical treatment options that will enhance patient compliance and improve health outcomes in several additional therapeutic areas. We intend to leverage our PTR platform technology to expand and augment our clinical-stage pipeline by identifying and developing additional assets in other therapeutic areas where one or more APIs need to be delivered several times a day at specific, pre-defined time intervals and released in a manner that would offer significant improvement over existing therapies. Our criteria for the selection of additional, future pipeline candidates will include the potential for \$1 billion or more in peak annual sales, the potential to deliver a clearly differentiated therapeutic advantage and the potential to overcome unmet medical needs.

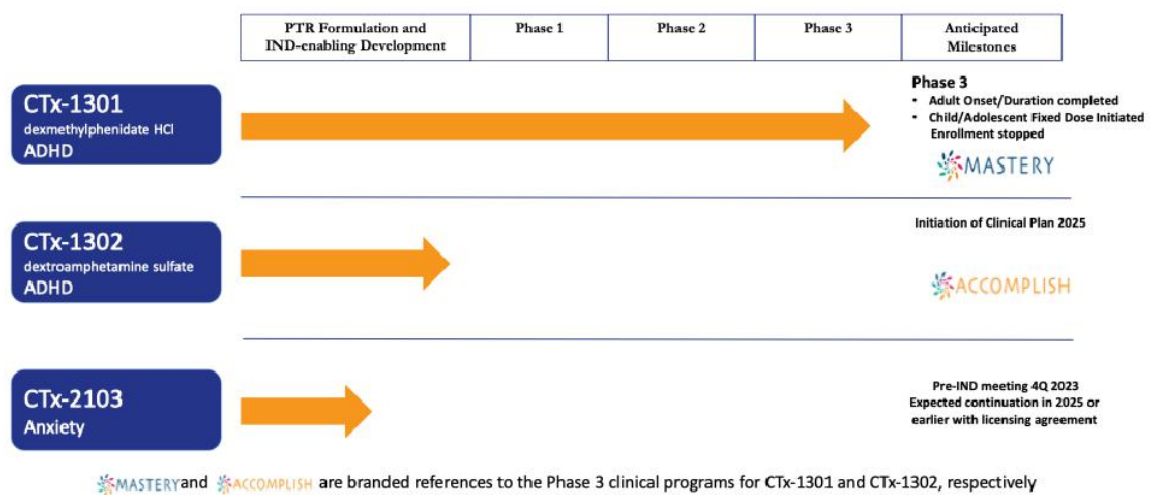
We are constructing a clinical program for CTx-2103 (buspirone), our anxiety candidate, under Section 505(b)(2) of the Federal Food, Drug, and Cosmetic Act, which may result in a faster time to NDA submission. As part of that effort we presented results from the human formulation study of CTx-2103 in September 2022 at the annual Psych Congress. Pharmacokinetics were evaluated for this trimodal tablet providing three precisely timed doses of buspirone versus one immediate release dose. In addition, scintigraphic imaging visualized transit of the tablets through the gastrointestinal tract to confirm both the site and onset of release, which will then be correlated with pharmacokinetic data to establish the full release profile of the CTx-2103 formulation.

CTx-2103 is being designed as a novel, extended-release tablet of buspirone that incorporates our proprietary PTR™ drug delivery platform. Buspirone, an azapirone derivative and a 5-HT_{1A} partial agonist, was the first non-benzodiazepine anxiolytic introduced for the treatment of generalized anxiety disorder. Buspirone may exhibit a decreased side-effect profile compared to other anxiolytic treatments. Unlike benzodiazepines and barbiturates, there is no associated risk of physical dependence or withdrawal with buspirone use due to the lack of effects on gamma-aminobutyric acid receptors.

The positive results from the human formulation study provided the critical information required and allowed us to request a Pre-IND meeting with the FDA to discuss the design of our clinical and regulatory program for CTx-2103, which occurred in the fourth quarter of 2023. We received input from the FDA regarding the regulatory pathway for CTx-2103, and the design of clinical studies for filing of an IND. Based on this FDA feedback, we believe that we can seek and win approval of CTx-2103 under the 505(b)(2) pathway, which typically requires less time and resources than the 505(b)(1) full NDA pathway.

In 2020, United States sales for this of buspirone in various forms accounted for over \$2 billion of sales in the \$5.2 billion anxiety market. CTx-2103 will be designed as a once-daily, modified-release tablet with clear differentiation and compelling advantages over standard treatment options which must be taken multiple times per day to maximize efficacy. We are in active license conversations and, pending a definitive agreement and additional capital resources, development of CTx-2103 (buspirone) for the treatment of anxiety may begin as soon as 2025.

Our Clinical Development Pipeline



2

Our Strategy

Our goal is to be a leading, innovative biopharmaceutical company focused on the development, manufacturing and commercialization of next generation pharmaceutical products that utilize our PTR drug delivery platform technology to create dosing schedules and drug release profiles that will improve the lives of patients suffering from a multitude of frequently diagnosed conditions. Key initial elements of our business strategy to achieve this goal are to:

- *Complete development and obtain regulatory approval for CTx-1301 for the treatment of ADHD.*

In October 2020, we announced positive results from a Phase 1/2 study of CTx-1301 in ADHD patients establishing tolerability, comparative bioavailability, and dose proportionality of CTx-1301 versus Focalin® XR. A Phase 3 adult dose-optimization study to assess the efficacy and safety, along with onset and duration, of CTx-1301 in adults with ADHD was initiated in December 2022 and completed in June 2023. Results were presented at the 2023 Psych Congress. In addition we initiated two CTx-1301 Phase 3 clinical studies in pediatric and adolescent patients- a fixed dose study and a dose-optimized onset and duration study in a laboratory classroom setting – in the third quarter of 2023. Based on guidance received from the FDA regarding our clinical program for CTx-1301 (dexamethylphenidate), enrollment in these two studies. All enrolled patients in these studies can complete the study and data will be reported accordingly. Additionally, based on this guidance, we expect to submit the NDA for CTx-1301 in the first half of 2025 under the Section 505(b)(2) pathway with Focalin® XR as the reference listed drug, using its efficacy and safety data on file with the FDA as a basis for approval, together with bioavailability/bioequivalence data and efficacy/safety data from our CTx-1301 clinical program.

- *Successfully commercialize CTx-1301.*

If we receive FDA approval for CTx-1301, we plan to commercialize our lead candidate with the assistance of Indegene, Inc. In March 2023, we entered into a Joint Commercialization Agreement with Indegene pursuant to which Indegene will provide commercialization services for CTx-1301, including marketing, sales, market access and distribution, on a fee for service basis.

- **Advance clinical trials for CTx-2103 for the treatment of anxiety.** In September 2022, we announced that data from the human formulation study for CTx-2103 demonstrated its ability to deliver a single administration of triple-release buspirone. We will use these results to design the clinical program for CTx-2103, which will be designed as a once-daily, multi-dose tablet with what we believe will be clear differentiation and compelling advantages over standard treatment options. We are in active license conversations and pending a definitive agreement, development of CTx-2103 (buspirone) for the treatment of anxiety may begin as soon as 2025 pending additional capital resources.
- **Advance development of CTx-1302 for the treatment of ADHD.** We plan to initiate a clinical plan for CTx-1302 (dextroamphetamine), our second investigational asset for the treatment of ADHD, as soon as 2025 pending additional capital resources.
- **Maximize the potential of our PTR platform to develop additional product candidates in new indications with significant unmet medical need and billion-dollar revenue potential.** We intend to use our PTR drug delivery platform technology and the streamlined 505(b)(2) development pathway to develop additional therapeutic assets in other therapeutic areas where one or more active pharmaceutical ingredients need to be administered several times a day at specific, pre-defined time intervals and released in a manner that would offer significant improvement over existing therapies. We believe this will lead to improved patient compliance and better health outcomes. Further indications we intend to evaluate include insomnia, non-opioid pain, Alzheimer's, hypothyroidism, psychosis, depression, cardiovascular disorders, Parkinson's disease, migraine, oral oncology, xerostomia (dry mouth) and bipolar disorder, among others.
- **Acquire or in-license additional assets or programs to complement our portfolio and/or leverage our technology.** We continuously evaluate potential partnering opportunities or asset acquisitions that can bolster our current product candidate portfolio and provide substantial value to our organization. We intend to focus on early to mid-stage development product candidates to generate clinical data and potentially move to later stages of development and ultimately on to commercialization.
- **Out-license our PTR platform to other companies and license our product candidates outside of the United States.** We are actively seeking and evaluating opportunities to license our current assets and the PTR drug delivery platform technology to other companies looking to serve large patient populations with unmet needs and/or looking to transform multiple daily dosing to once daily administration to satisfy patient needs. We are also in on-going conversations to pursue and evaluate opportunities to license our product candidates to third parties for use outside of the United States.
- **Further strengthen our intellectual property portfolio.** We intend to continue to manage and expand our diverse intellectual property portfolio and maintain our trade secrets and know-how focused on our PTR platform, current and future pipeline candidates, and proprietary manufacturing process. We believe these activities will be critical to protect our platform and product candidates from potential competitors that may try to compete with our therapeutic assets and compression tableting approach.
- **Capitalize on our existing cGMP expertise.** We have developed a proprietary, reliable, high output, specialized manufacturing equipment with the potential for real-time testing and release that is employed by our third-party manufacturing partner. Our process has been designed to allow for the creation of a platform that can incorporate other drug substances thus permitting expansion into additional indications and therapeutic areas. We expect that our investment in these manufacturing capabilities and equipment will substantially reduce our development timelines and overall development costs for current and future assets. We currently utilize commercial manufacturing equipment and will not require technology transfer or large scale-up processes to meet clinical or commercial manufacturing needs. In October 2022, we announced that we have selected Societal CDMO, Inc. ("Societal") as our new contract development and manufacturing organization ("CDMO") that will manufacture all clinical, registration, and commercial batches of our lead candidate CTx-1301. Societal has dedicated a specific manufacturing suite within its Gainesville, GA facility and outfit it with proprietary equipment supplied by us.

Our Team

Our founders and management team have many years of experience in the biopharmaceutical space, holding management positions at leading biopharmaceutical companies, including Pfizer Inc., Novartis International AG, DuPont de Nemours, Inc. and Sanofi S.A., among others. Our team possesses substantial experience and expertise across the spectrum of drug development and commercialization of pharmaceutical products, including multiple psychiatric and nervous system products.

Shane J. Schaffer, our Co-Founder, Chairman and Chief Executive Officer, has held senior leadership roles at Pfizer Inc., Novartis International AG and Sanofi S.A. and has over 25 years of experience in drug development and commercialization. Dr. Matthew Brams, our Co-Founder and Chief Medical Officer, has over 30 years of clinical experience managing patients in the field of adult and child psychiatry and has been involved in the research, development, and evaluation of multiple ADHD medications. Dr. Raul R. Silva, our Co-Founder and Chief Science Officer, is a practicing child and adolescent psychiatrist who has served as Associate Professor and Vice Chairman of Child and Adolescent Psychiatry at NYU School of Medicine in New York City. Laurie A. Myers, our Chief Operating Officer, has held leadership positions for leading global pharmaceutical companies, including Pfizer Inc., Novartis International AG, DuPont de Nemours, Inc. and Sanofi S.A. and has over 25 years of experience in drug development, marketing and commercialization.

ADHD Overview and Drawbacks of Current Therapies

ADHD is a chronic neurobehavioral and developmental disorder that affects millions of children, adolescents and adults. In the United States, approximately 6.4 million, or 11%, of children and adolescents aged 4-17 have been diagnosed with ADHD. Among this group, 80% receive treatment and 65% demonstrate clinical ADHD symptoms that persist into adulthood. Adult ADHD prevalence in the United States is estimated at approximately 11 million patients, or 4.4%, of the population, almost double the size of the child and adolescent segment combined. Currently, approximately 20% of the adult ADHD population receives treatment, however an increasing number of adult patients are being diagnosed and seeking treatment causing the adult ADHD market to grow approximately 10% year over year. Total ADHD medication sales in the United States continue to grow with sales of all ADHD medications reaching over \$23 billion for the 12-months ended November 2023.

ADHD is marked by an on-going pattern of inattention and/or hyperactivity-impulsivity that interferes with functioning and/or development. According to the American Academy of Child and Adolescent Psychiatry, common manifestations of ADHD in children and adolescents include:

Hyperactivity: Children always seem to be in motion. A child who is hyperactive may move around touching or playing with whatever is around, or talk continually. During story time or school lessons, the child might squirm around, fidget, or get up and move around the room. Some children wiggle their feet or tap their fingers. A teenager or adult who is hyperactive may feel restless and need to stay busy all the time.

Impulsivity: Children often blurt out comments without thinking first. They may often display their emotions without restraint. They may also fail to consider the consequences of their actions. Such children may find it hard to wait in line or take turns. Impulsive teenagers and adults tend to make choices that have a small immediate payoff rather than working toward larger delayed rewards.

Inattentiveness: Inattentive children may quickly get bored with an activity if it's not something they really enjoy. Organizing and completing a task or learning something new is difficult for them. As students, they often forget to write down a school assignment or bring a book home. Completing homework can be huge challenge. At any age, an inattentive person may often be easily distracted, make careless mistakes, forget things, have trouble following instructions, or skip from one activity to another without finishing anything.

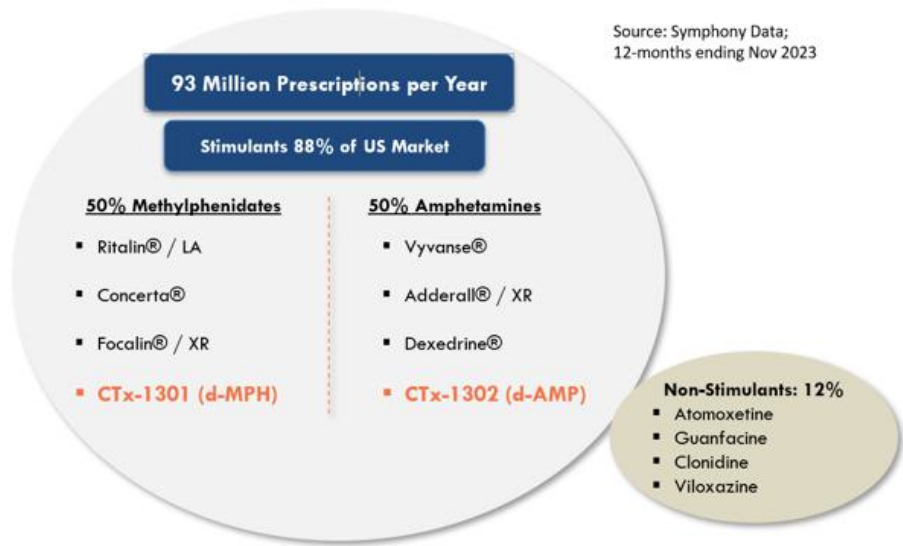
Adult ADHD patients typically suffer from restlessness, impulsivity, difficulty with time management, trouble regulating emotions and difficulty managing finances. Adults with ADHD report experiencing an internal sense of fidgetiness and restlessness and experience greater difficulty communicating with others. Upon entering the job market, many adults have difficulty gaining employment and are at increased risk of termination due to repeated tardiness or absenteeism. Adults with ADHD earn approximately 30% less and are 10% less likely to be employed versus their unaffected peers. Additionally, adults with ADHD are more likely to exhibit a variety of comorbidities including drug and alcohol abuse, social anxiety and depression.

ADHD in both children and adults has an impact not only on the individual but on their families, friends and peers and because of its prevalence as one of the most commonly diagnosed behavioral disorders, a critical impact on society, the healthcare system and the economy at large. On a societal level, versus control groups, ADHD patients experience a greater than 40% higher rate of vehicle accidents, 2x greater divorce rate, have a 2-fold greater incidence of accidental death, and research from prospective studies indicates that children and adults with ADHD have approximately twice the incarceration rate. On an economic level, in the United States alone, national annual incremental cost of ADHD ranged from \$143 billion to \$266 billion.

Although there is no single medical, physical, or genetic test for ADHD, qualified mental health care professionals and physicians are able to provide a diagnostic evaluation after gathering information from multiple sources including ADHD symptom checklists, standardized behavior rating scales, detailed histories of past and current functioning, and information obtained from close family members or significant others. Some practitioners will also conduct tests of cognitive ability and academic achievement in order to rule out a possible learning disability.

Stimulants are the most commonly prescribed class of medications for ADHD, accounting for approximately 88% of all ADHD medication prescriptions. Stimulants are Schedule II controlled substances and are believed to work by enhancing the effects of dopamine and norepinephrine neurotransmitters in the brain. Approximately 82 million stimulant prescriptions were written during the 12-months ended November 2023. In contrast, non-stimulant medications are typically deployed as second line or adjunctive therapies and account for 12% of all ADHD medication prescriptions. Currently, the ADHD market is dominated by four main stimulant medications: Vyvanse®, Adderall® XR, Concerta®, and Focalin® XR. These products were approved and became available between 2000 and 2007 and were believed to revolutionize the ADHD treatment paradigm by finally providing a solution to avoid the late morning second dose of stimulant medication then required by ADHD patients.

\$23 Billion US ADHD Market Dominated by Stimulants



Unfortunately, as designed, all four of the mostly commonly prescribed stimulant drugs deliver all the drug substance during the morning hours. As a result, most patients still require additional medication to cover the remainder of their active day. Currently, 60% of ADHD patients require an afternoon 'booster/recovery' dose due to lack of duration, slow onset of efficacy, and the crash or rebound effects in the early afternoon. Additionally, their PK-PD release profiles are such that they leave patients significantly impaired by crash and rebound effects even while on therapy.

Patients and practitioners report, that an ideal ADHD stimulant medication would provide **all** of the following characteristics: entire active-day duration ; immediate onset of action (within 30 minutes); ability to minimize or avoid crash / rebound effects associated with rapid decline in medication blood levels; and elimination of the need for short-acting stimulant booster/recovery doses.

ADHD Market Currently Dominated by 4 Stimulant Products

Major Unmet Medical Needs Persist

ADHD BRANDS	Approved	ATTRIBUTES		UNMET NEEDS			
		Onset	Duration (less onset)	Fast Onset of Action ≤ 30 min	Entire Active-Day Efficacy*	Minimize Crash/Rebound	Avoid Booster
Vyvanse®	2007	2 hours	12 hours	✗	✗	Data Not Available	✗
Adderall® XR	2001	1½ hours	10½ hours	✗	✗	Data Not Available	✗
Concerta®	2000	2 hours	10 hours	✗	✗	Data Not Available	✗
Focalin® XR	2005	30 mins	11½ hours	✓	✗	Data Not Available	✗

* Entire-active day efficacy defined as less than or equal to a 30 min onset of action with 14-16 hours of duration vs. placebo

The chart above is based upon the Package Inserts and Summary Basis of Approvals for the approved products.

ADHD Market Leaders Do Not Provide “Built-In Booster”

Market Leaders Stop Delivery of Medication 4-5 Hours After Administration

ADHD BRANDS	ATTRIBUTES		RELEASE PROFILES		
	Onset	Duration (less onset)	DOSE 1 / STYLE / TIME	DOSE 2 / STYLE / TIME	DOSE 3 / STYLE / TIME
Vyvanse®	2 hours	12 hours	100% PRODRUG SUSTAINED RELEASE OVER 2 – 3 HOURS	0	0
Adderall® XR (and generics)	1½ hours	10½ hours	50% IMMEDIATE RELEASE	50% IMMEDIATE RELEASE AT HOUR 4	0
Concerta® (and generics)	2 hours	10 hours	22% IMMEDIATE RELEASE	78% SUSTAINED RELEASE OVER 4-5 HOURS	0
Focalin® XR (and generics)	30 mins	11½ hours	50% IMMEDIATE RELEASE	50% IMMEDIATE RELEASE AT HOUR 4	0

The chart above is based upon the Package Inserts and Summary Basis of Approvals for the approved products.

In recent years, the FDA has approved additional stimulant medications that were designed to meet some of the remaining unmet needs. Chewables, liquids and oral disintegrating tablets have come to market as has one product with an evening dosing schedule intended to provide early morning onset. None of these products have been able to meet all of the unmet needs of ADHD patients and prescribers and consequently all have failed to gain traction as first-line agents. Furthermore, these recent stimulant medications, based on their market share, appear to offer little advantage over widely available generic products for healthcare practitioners and their patients. They have proven to be niche remedies occupying a combined 2.0% of the total ADHD prescriptions written in the United States in 2020. Thus, there is an unmet need for a true once-daily dose providing a fast onset of action, minimization or elimination of the crash/rebound, elimination of the booster/recovery dose, and most importantly, providing entire ‘active-day’ efficacy.

Recent Launches Lack Meaningful Clinical Innovation

Niche Delivery Platforms Have Also Failed to Overcome ALL Unmet Needs

ADHD BRANDS	ATTRIBUTES ¹		UNMET NEEDS			
	Onset	Duration	Fast Acting (≤ 30 min)	Entire Active-Day Efficacy*	Avoid Crash/Rebound	Avoid Booster
Quillivant / Chew® XR	60 mins	8 hours	✗	✗	✗	✗
Mydayis®	2 or 4 hrs	16+ hours	✗	✗	✗	Potentially
Adzenys® ER/ODT	60 mins	8-9 hours	✗	✗	✗	✗
Cotempla® XR/ODT	60 mins	10-12 hours	✗	✗	✗	✗
Aptensio® XR	60 mins	9 hours	✗	✗	✗	✗
Evekeo® / ODT	60 mins	10 hours	✗	✗	✗	✗
Dynavel® XR Oral Susp.	60 min	13 hours	✗	✗	✗	✗
Zenzedi®	60 mins	4-5 hours	✗	✗	✗	✗
Jornay® PM (at night)	2-hour window	10-11 hours	✗	✗	✗	✗
Adhansia® XR – Discontinued	60 mins	12-13 hours	✗	✗	✗	✗
Azstarys® (summer 2021)	Failed Endpoint	Failed Endpoint	✗	✗	✗	✗

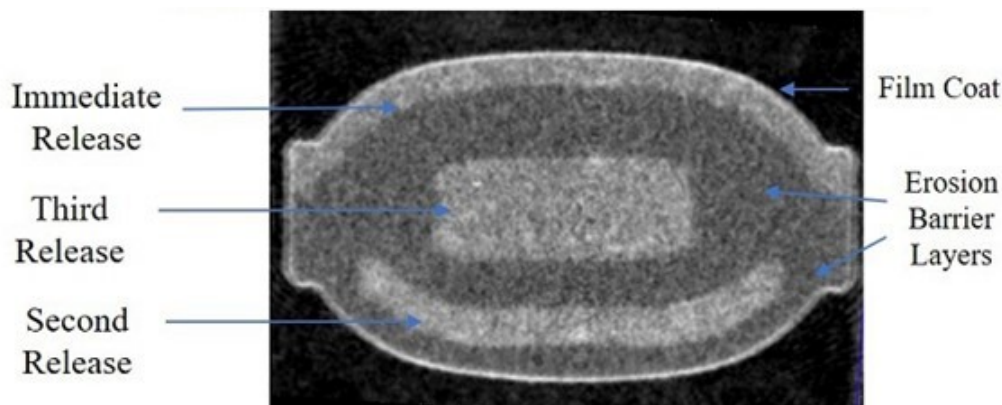
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The chart above is based upon the Package Inserts and Summary Basis of Approvals for the approved products.

Our Solution: Our Proprietary Precision Timed Release Drug Delivery Platform Technology

We are developing medications capable of achieving true once-daily dosing using our internally developed PTR drug delivery platform technology. Our CTx-1301, CTx-1302 and CTx-2103 drug candidates contain three releases of active pharmaceutical ingredient combined into one small tablet dosage form (smaller than many comparable single dose ADHD products). Each release of API is separated with a proprietary EBL, a functional excipient that is designed to gradually erode throughout the day to provide controlled drug release at specific time intervals, allowing for a favorable target efficacious period.

Illustration of Our PTR Platform Film-Coated Tablet





We believe our PTR technology affords our drug candidates the following advantages over currently available ADHD treatments:

Fast Onset. Many currently available therapies often take up to 60 minutes or longer to start working and thus can leave patients with long gaps between dosing and onset. In an effort to minimize this onset gap, patients will often wake up early to take their medication and attempt to go back to sleep until the medication takes effect. We have designed our drug candidates to be fast-acting so they can be taken in the morning when the patient starts their day, not predawn while they wait for onset.

Elimination of Need For Additional Stimulant Boosters. With entire active-day coverage, we believe our technology will eliminate the need for patients to take afternoon booster doses when their currently prescribed therapies wear off. By eliminating the need for a booster dose, we believe our candidates will cause less embarrassment for patients, especially child and adolescent patients who are often forced to take a second dose while at school surrounded by classmates and increase patient compliance especially in the ADHD population where patients are prone to forget to take the additional dose they need to get through their active day.

Lower Abuse Potential. We believe our fast onset and entire active-day solution for ADHD patients, if approved, will lower the incidence of short-acting stimulant drug abuse and diversion. We believe by eliminating the need for the short-acting stimulant booster dose, the potential for illicit sales and recreational use that often comes as a result of patients carrying short-acting Schedule II controlled substances to school or work for afternoon dosing will decrease.

Elimination Crash and Rebound Symptoms. Patients on currently available therapies may report adverse effects or a flare of ADHD symptoms as their medications wear off; these effects are termed “crash” and “rebound.” Using our precise timing, ratio, and style of drug delivery, we believe our candidates provide a controlled descent of blood levels, eliminating this uncomfortable experience for patients.

Lower Cost. By providing entire active-day efficacy, our drug candidates eliminate the need for doctors to prescribe more than one medication lowering the overall cost of the condition to individual patients and within the healthcare system at large. Furthermore, generic medications in the stimulant ADHD category are not tremendously less expensive as they are in other categories of non-controlled medications. Generic stimulant medications cost anywhere from 55%-90% of the cost of their brand counterparts. We believe, if approved, our drug candidates will offer a much more cost-effective solution to patients.

Significantly Improved Tolerability. Because of the PK and PD profile of our drug, we believe patients will experience fewer treatment related adverse events associated with existing stimulant therapies including insomnia, appetite suppression, and feelings of extreme restlessness, dysphoria, irritability, fatigue, and flattening of affect.

Availability in Eight Dosage Strengths at Launch and Single-Enantiomer API Selection. Our CTx-1301 and CTx-1302 product candidates are both round film-coated tablets that we intend to provide in eight matching dosage strengths. We believe providing practitioners with the ability to properly titrate and optimize their patients' daily dosing needs is critical. By having eight dosage strengths at launch, practitioners will not have to constantly switch their patients to other medications or supplement patients with more short-acting booster medications. In addition, we believe that eight dosage strengths will allow healthcare practitioners to appropriately treat the range of patients in their practice, from early childhood through adulthood. Medications that have launched with three dosage strengths are often ignored or avoided until at least six or seven strengths are available. Both CTx-1301 and CTx-1302 contain APIs that are Schedule II controlled substances. The APIs of both product candidates utilize just one of the multiple enantiomers, which may result in improvements in potency, adverse events (Aes), and drug interactions profiles along with an enhanced therapeutic index.

Our Lead Candidate CTx-1301: Dexamethylphenidate for the Treatment of ADHD in 6 Years and Older

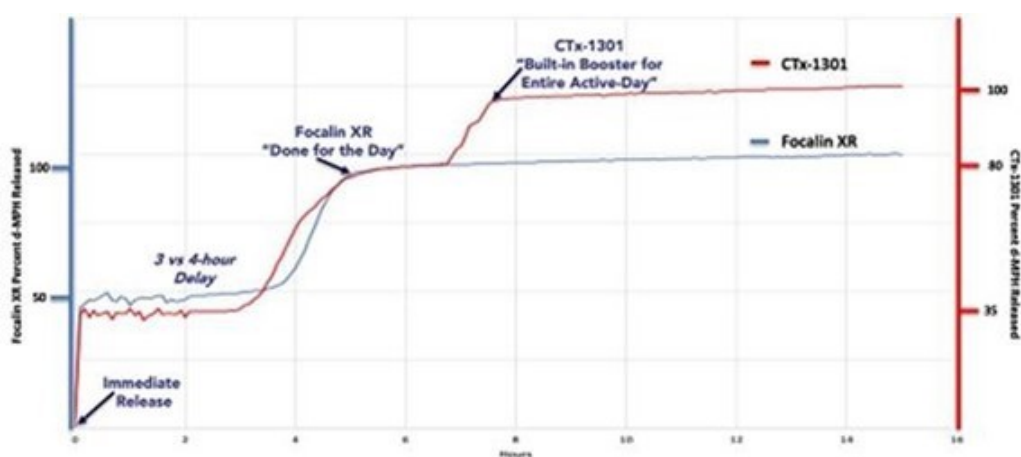
We believe our most advanced drug product candidate, CTx-1301, will be the first true once-daily dexamethylphenidate tablet for the treatment of ADHD, providing onset-of-action within 30 minutes and entire 'active-day' efficacy. CTx-1301 is a trimodal extended-release tablet, based on tablet-in-tablet technology, which provides three distinguishing releases of dexamethylphenidate hydrochloride at precise times, ratio, and modality of release. Our CTx-1301 release profile is as follows:

Release #1: An initial immediate-release, or IR, dose providing 35% of the total daily dose beginning within five to six minutes after administration and designed to achieve therapeutic efficacy within 30 minutes; and

Release #2: Three hours after the administration of the dosage form, the first delayed, sustained release (DR1) provides 45% of the total daily dose released over 90 minutes; and

Release #3: Seven hours after the administration of the dosage form, a second delayed, immediate release (DR2, the built-in-booster) provides 20% of the total daily dose released over approximately 30 minutes.

Release Comparison of CTx-1301 versus Focalin XR (Reference Listed Drug)



Our proprietary, trimodal release profile is engineered to provide patients with a rapid onset of relief from symptoms and to maintain that relief throughout the entire active day. Further, we believe CTx-1301 will continue to demonstrate a more favorable tolerability profile that results from this specialized three-release design and unique 35%-45%-20% release profile, compared to the currently available 50%-50% or 33%-33%-33% release profile that would be produced if a patient were to take three individual doses of dexamethylphenidate in the same milligram strengths. CTx-1301 delivers a release profile that cannot be replicated with commercially available (branded or generic) short and long-acting formulations and was precisely engineered and designed to meet the specific needs of ADHD patients and providers.

We expect CTx-1301 film-coated tablets to be available in eight dosage strengths ranging from 6.25mg to 50mg of dexamethylphenidate. All excipients are compendial and/or non-novel, well established for use in oral formulations, and are present in the drug product at levels well below their maximum potencies listed in FDA's inactive ingredient database (IID).

Our CTx-1301 Clinical Development Program

The proposed clinical program for CTx-1301 consists of two Phase 1/2 clinical pharmacology studies and our Phase 3 Mastery clinical efficacy and safety trials.

Our Phase 1/2 Bioavailability Trial Results

In October 2020, we announced positive results from a Phase 1/2 comparative bioavailability study in ADHD subjects, under fasted conditions, and demonstrated similar bioavailability to our RLD, Focalin XR. Adjusted geometric mean ratios of primary exposure parameters (C_{max} , AUC_{0-inf} , and AUC_{last}) between CTx-1301 and Focalin XR were within the required 80% to 125% range, both at the high and the low doses, demonstrating a bridge to the RLD as well as dose proportionality. There were no unexpected adverse events, no serious adverse events, no deaths, and no other safety signals observed during this study.

Key Findings

Bridged to Focalin® XR

- Confirmed similar bioavailability to Focalin XR and confirmation of our ability to utilize the 505(b)2 pathway
- Demonstrated dose proportionality, allowing us to avoid the need to evaluate all individual strengths *in vivo*
- Eliminated any requirement for nonclinical studies and ability to utilize existing safety from the Focalin XR label, potentially resulting in a faster pathway to market

Demonstrated Plasma Levels versus Focalin® XR

- CTx-1301 blood levels demonstrated the potential for a fast onset, active-day duration, and favorable tolerability.
- Performed as designed, with its precise 20% 'built-in-booster' 3rd delivery confirming that if approved, CTx-1301 would eliminate patients need for short-acting stimulants and avoid the potential for non-ideal blood levels that could impact normal sleep and appetite

Demonstrated Controlled Descent of Plasma Levels versus Focalin® XR

- Precise 20% 3rd delivery stopped the mid-afternoon plummeting of blood levels, controlling the decline.

Demonstrated Significantly Lower Treatment Emergent Adverse Events

- Patients received 25% more medication via the PTR Platform in a precisely timed, unique ratio
- CTx-1301 patients experienced a 28.6% reduction of TEAE's related to study drug versus Focalin XR

Our comparative bioavailability data study versus Focalin XR is presented in Figure 1, Figure 2, and Figure 3

Figure 1: Comparative Bioavailability Study of CTx-1301 versus Focalin XR in Adult ADHD subjects under Fasted Conditions (low dose comparison)

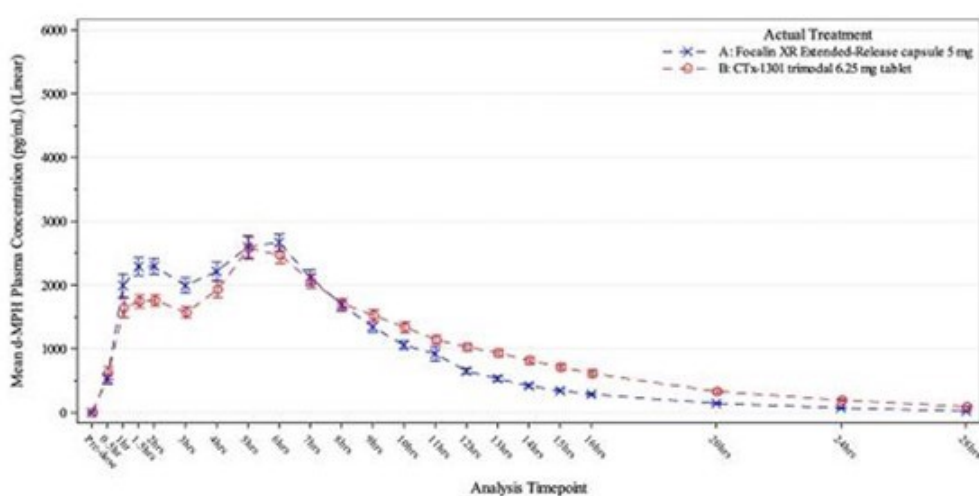


Figure 2: Comparative Bioavailability Study of CTx-1301 versus Focalin XR in Adult ADHD subjects under Fasted Conditions (high dose)

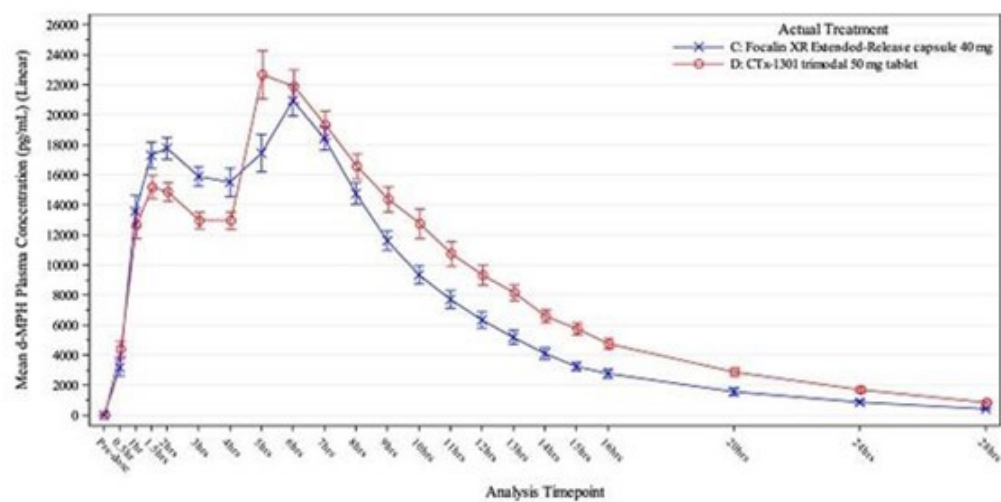
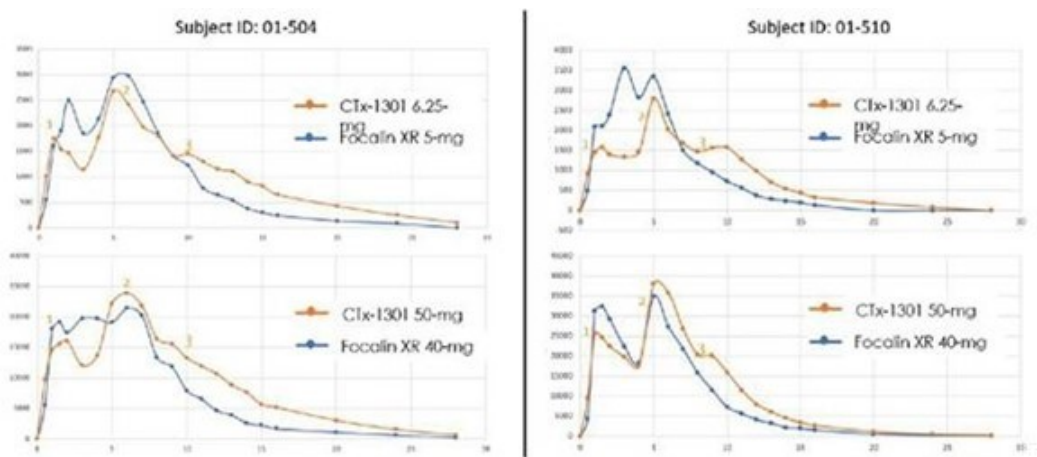


Figure 3: Comparative Bioavailability Study of CTx-1301 versus Focalin XR in individual Adult ADHD subjects under Fasted Conditions (low and high dose)



Our Additional Phase 1 Study

We completed a Phase 1 Food Effect study in October 2022. Primary endpoints demonstrated that CTx-1301 can be taken with or without food.

Fast-Fed Study

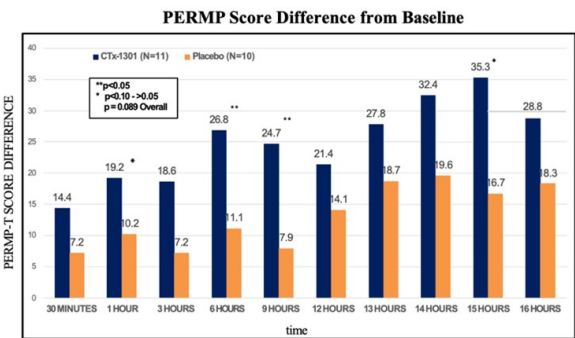
- A Phase 1, open-label, randomized, single-dose, two-period, two-treatment (fed vs fasted), two-sequence, crossover study in 23 healthy adult subjects, 18-50 years of age, to assess the effect of food on the absorption and bioavailability of CTx-1301. The objectives of this study were to assess the effect of food on the rate and extent of absorption and the overall bioavailability of a single dose of CTx-1301. Secondary objectives were to provide pharmacokinetic data on blood plasma levels of CTx-1301 in both a fasted and fed state, and to evaluate the safety of a single dose of CTx-1301 25 mg tablet. Exploratory objectives were to further explore the characteristics of CTx-1301 25 mg tablet within selected time intervals.

Our Phase 3 MASTERY Trials

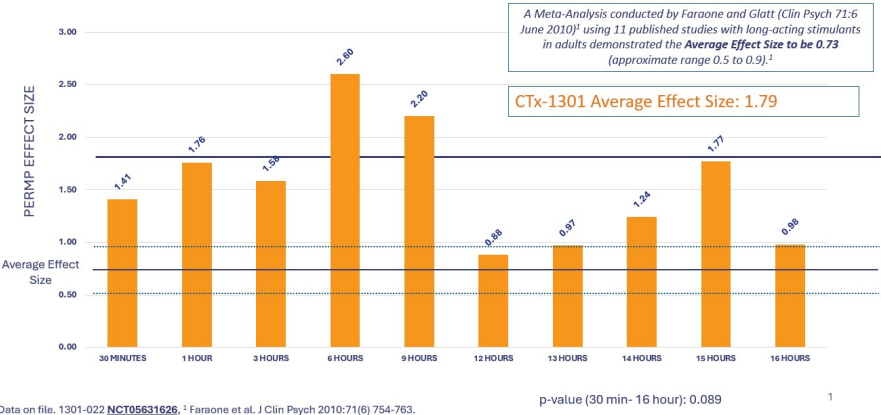
A Phase 3 adult dose-optimization study to assess the efficacy and safety, along with onset and duration, of CTx-1301 in adults with ADHD was initiated in December 2022 and completed in June 2023. Results were presented at the 2023 Psych Congress and will be presented at the 2024 American Professional Society of ADHD and Related Disorders (APSARD) in January 2024. This Phase 3 CTx-1301 study (NCT05631626) assessed efficacy and safety along with onset and duration of CTx-1301 in 21 adults (age range: 18-55 years) with ADHD in an adult laboratory classroom setting. It did not achieve statistical significance on the primary efficacy endpoint but CTx-1301 demonstrated a trend toward significance in improving PERMP scores compared to placebo. CGI-S scores with CTx-1301 compared to placebo also showed significant improvements that were indeed statistically significant for this secondary endpoint. The treatment effect size of CTx-1301 in this trial was notable – starting at 30 minutes and demonstrated the ability of CTx-1301 to improve upon ADHD symptoms in patients over an entire active day.

Key Findings

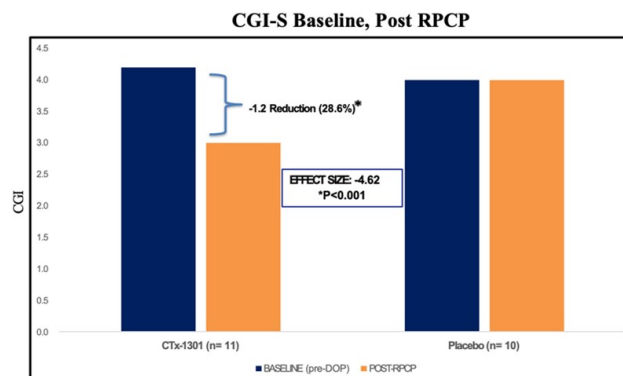
The PERMP is a skill-adjusted math test deployed in this Phase 3 study. The PERMP score is the sum of the number of math problems attempted plus the number of math problems answered correctly in a 10-minute session. The scores range from 0-800 with higher scores indicating better performance.



CTx-1301 PERMP Effect Size

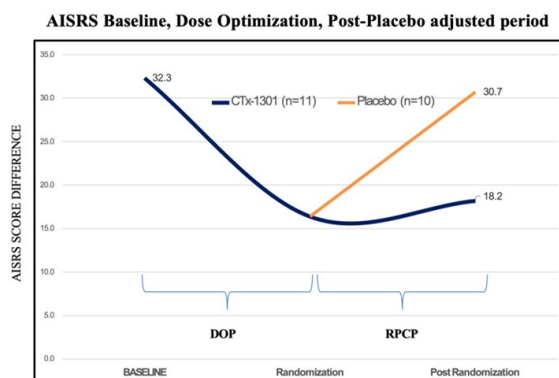


The CGI-S is a single-item scale that measures the severity of psychopathology from 1-7 and was measured during this Phase 3 study in adults.



* RPCP: Randomized Double-Blind Placebo Controlled Period

The AISRS, or ADHD Rating Scale is an 18-item scale based on Diagnostic and Statistical Manual of Mental Disorders, 5th edition (DSM-5) (American Psychiatric Association 2013) which evaluates the criteria of ADHD and rates symptoms on a 4-point scale and was also measured in this adult study. Each item is scored using a combination of severity and frequency ratings from zero (reflecting no symptoms or a frequency of never or rarely) to three (reflecting severe symptoms or a frequency of very often), so that the total AISRS-5 scores range from zero to 54.



These Phase 3 CTx-1301 diagnostic tools and ADHD evaluations including the AISRS-5, the CGI-S, and the PERMP are commonly used as study endpoints in support of an NDA filing.

Our Phase 3 CTx-1301 clinical safety and efficacy studies also include two child and adolescent studies which were initiated in the third quarter of 2023:

- *A Phase 3, dose-optimized, randomized, double-blind, placebo-controlled, single-center, parallel-group efficacy and safety laboratory classroom study in children (6-12) with ADHD.* The primary objective is to evaluate the efficacy of CTx-1301 compared to placebo in treating children with ADHD in a laboratory classroom study using the PERMP. Secondary objectives are to determine onset and duration of clinical effect of CTx-1301 and to determine safety and tolerability of CTx-1301 compared to placebo.
- *A Phase 3, randomized, double-blind, placebo-controlled, multi-center, fixed-dose, parallel-group, efficacy and safety study in children and adolescent (6-17 y/o) with ADHD.* The primary objective is to evaluate the efficacy of a fixed dose of CTx-1301 compared to placebo using the ADHD-RS-5. Secondary objectives are to evaluate the efficacy of a fixed dose of CTx-1301 compared to placebo using the CGI-S, safety and tolerability of a fixed dose of CTx-1301, and PK levels after a single dose and at steady state.

Exploratory objectives will be evaluated in the adult dose-optimization study to define and evaluate the unique benefits and satisfaction of optimized treatment with CTx-1301 against prior therapies using patient reported outcomes (“PROs”). The PRO evaluation will include:

- Subjects required use of “booster” doses for entire active-day efficacy, avoidance of wear-off effect, crash/rebound, and abuse/diversion of short-acting stimulants.
- Compare overall treatment satisfaction of prior therapies versus CTx-1301.
- Compare adverse events of prior therapies versus CTx-1301.
- Evaluate importance of a true, once-daily treatment for ADHD.
- Evaluate the incidence of abuse and/or diversion of short-acting booster doses.
- Evaluate important differentiators for patients requiring ADHD treatment by providing a complete solution with entire active-day efficacy, fast onset of action, avoiding crash/rebound, and eliminating the required short-acting stimulant booster/recovery dose.

These exploratory measures will not only provide critical information for clinicians but also provide important data to payers and market access teams.

Based on guidance received from the FDA regarding our clinical program for CTx-1301, we stopped enrollment in these two studies. All enrolled patients in these studies can complete the study and data will be reported accordingly. Additionally, based on this guidance, we expect to submit the NDA for CTx-1301 in the first half of 2025 under the Section 505(b)(2) pathway with Focalin® XR as the reference listed drug, using its efficacy and safety data on file with the FDA as a basis for approval, together with bioavailability/bioequivalence data and efficacy/safety data from our CTx-1301 clinical program. If we receive FDA approval for CTx-1301, we may conduct Phase 4 trials.

CTx-1302: Dextroamphetamine for the treatment of ADHD in 6 years and older

We believe our drug product candidate CTx-1302, will be the first true once-daily dextroamphetamine tablet for the treatment of ADHD, providing onset-of-action within 30 minutes and efficacy for the entire active day. CTx-1302 is a trimodal extended-release tablet, based on tablet-in-tablet technology, that provides three releases of dextroamphetamine at precise times, ratio, and modality of release. Our CTx-1302 release profile is as follows:

- Release #1: An initial immediate-release, or IR, dose providing 45% of the total daily dose begins within five to six minutes after administration is designed to achieve therapeutic efficacy within 30 minutes; and
- Release #2: Three hours after the administration of the dosage form, the DR1 provides 35% of the total daily dose released over 90 minutes; and
- Release #3: Seven hours after the administration of the dosage form, a DR2, the built-in-booster provides 20% of the total daily dose released over approximately 30 minutes.

We expect CTx-1302 tablets will be available in eight dosage strengths ranging from 6.25mg to 50mg of dextroamphetamine. All excipients are compendial and/or non-novel, well established for use in oral formulations, and are present in the drug product at levels well below their maximum potencies listed in FDA’s IID.

Our CTx-1302 Clinical Development Program

Our proposed clinical program for CTx-1302 consists of Phase 1/2 clinical pharmacology studies and Phase 3 clinical efficacy and safety trials. We plan to initiate a Phase 1/2 bioavailability study in ADHD patients for CTx-1302 in 2025 and, if the results from this study are successful, subsequently initiate pivotal Phase 3 clinical trials, the branded ACCOMPLISH trials, in late 2025 or early 2026; all dependent on capital resources. Our Phase 1/2 trials are expected to include approximately 100 patients and the Phase 3 clinical plan will include approximately 500 patients.

Our Planned Phase 1 Trials

Our proposed Phase 1 CTx-1302 clinical pharmacology studies include:

- *Phase 1/2 Comparative Bioavailability Study:* To evaluate and compare the pharmacokinetic profile of CTx-1302 to the RLD, Dexedrine Spansule in adults with ADHD (18+ y/o).
- *Phase 1 Food Effect Study:* To evaluate the pharmacokinetic profile of CTx-1302 under fed and fasted conditions in adults (18+ y/o).
- *Phase 1 Single-Dose, Fully-Replicate Crossover Study:* To evaluate the intra-subject variability of the in vivo pharmacokinetic profile of CTx-1302 to the RLD, Dexedrine Spansule in adults (18+ y/o).

Planned Phase 3 ACCOMPLISH Trials

- *A Phase 3, fixed-dose, parallel-design, placebo-controlled, 5-week study in children and adolescent patients (6-17 y/o).* The primary efficacy endpoint is the ADHD-RS-5. The Clinical Global Improvement Severity Scale (CGI-S) will be evaluated as a secondary endpoint.
- *A Phase 3, analog workplace efficacy and safety study in adults (18+):* The primary efficacy endpoint is the PERMP. Time to onset and duration of effect will also be evaluated as key secondary endpoints.
- *A long-term dose-optimization safety study will evaluate safety of the pediatric population (6-17 y/o) for six months.* This study will collect and monitor any adverse events that occur during the timeframe of the study.

Important exploratory endpoints included in the analog Phase 3 protocols will define and evaluate the unique benefits and satisfaction of optimized treatment with CTx-1302 against prior therapies using PROs similar to those from the CTx-1301 Phase 3 plan.

We expect the 505(b)(2) NDA filing for CTx-1302 will use Dexedrine® Spansule® as a reference drug, using as a basis for approval that drug's efficacy and safety data on file at FDA, together with bioavailability/bioequivalence data and efficacy/safety data from our CTx-1302 clinical program.

If a complete Phase 3 safety and efficacy studies package will be required for CTx-1302 we can expect that similar diagnostic tools and ADHD evaluations including the ADHD-RS-5, the CGI-S, and the PERMP will be incorporated as in CTx-1301. However, based on our current knowledge about the clinical program for CTx-1301, we may again approach the FDA for their guidance on an alternate, more cost and time efficient approach for CTx-1302.

CTx-2103: Buspirone product candidate for the treatment of anxiety related disorders

We have embarked on a program to develop CTx-2103 (buspirone) for the treatment of anxiety, which is the most common mental health concern in the United States. We believe CTx-2103 has the potential to be the first once-daily formulation of buspirone, one of the most widely prescribed agents in the anxiety market. CTx-2103 is a novel, extended-release tablet that contains the active pharmaceutical ingredient buspirone hydrochloride, a non-benzodiazepine medication, for which there is no evidence of the development or risk of dependency. However, due to its short half-life, buspirone is prescribed to be taken several times a day for management of anxiety, which can be challenging for patients and may lead to sub-optimal treatment outcomes. CTx-2103 will be designed as a once-daily, multi-dose tablet, which we believe will offer clear differentiation and compelling advantages over currently available treatment options.

Our CTx-2103 Clinical Development Program

In June 2022, we completed a human formulation study for CTx-2103. The first human subject study of CTx-2103 was a single-center, open-label, four-arm crossover study in 10 healthy subjects. Each participant received four different doses of buspirone at different assessment visits: one timed-release 10mg tablet releasing drug after a four-hour delay, one timed-release 10mg tablet releasing drug after an eight-hour delay, one triple-pulse 10mg tablet releasing drug at zero, four and eight hours, and one immediate release 10mg tablet of generic buspirone (the reference product, which is a commercially available formulation).

The primary objective was to evaluate the absorption of buspirone and the presence of metabolite 1-pyrimidinylpiperazine (1-PP) in blood plasma from time-delayed formulations and correlate this with scintigraphic time and site of release data. Secondary objectives of the study will compare the pharmacokinetic performance of the time delayed buspirone products with a commercially available formulation. Additionally, the study will evaluate the absorption of buspirone and the presence of metabolite 1-PP in blood plasma from a triple-release product.

Safety evaluations demonstrated that CTx-2103 is safe and well tolerated. No serious, severe, or clinically meaningful treatment-emergent adverse events (“TEAEs”) occurred during this study. Most TEAEs were mild in severity and were consistent with events expected for buspirone. The evaluation of TEAEs, laboratory examinations, physical examinations, ECG recordings, and measurement of vital signs (blood pressure and pulse rate) revealed no safety concerns for buspirone.

Based on the pharmacokinetic profile seen in the data from the formulation study, CTx-2103 achieved a triple release of buspirone hydrochloride. The positive results from this human formulation study provided the critical information needed for us to request a Pre-IND meeting with the FDA to discuss the design of our clinical and regulatory program for CTx-2103. The Pre-IND meeting occurred in the fourth quarter of 2023. We received input from the FDA regarding the regulatory pathway for CTx-2103, and the design of clinical studies for filing of an Investigational New Drug (“IND”). Based on the FDA’s feedback, CTx-2103 may be able to seek and win approval under the 505(b)(2) pathway, which typically requires less time and resources than the 505(b)(1) full NDA pathway.

Commercialization

Given our stage of development, we do not currently have any internal sales, marketing, or distribution infrastructure or capabilities. If CTx-1301 and/or CTx-1302 are approved, we plan to pursue commercialization of our product candidates in the United States, which we expect will be the first country in which we receive market authorization. We will need a commercial collaboration partner to benefit from their ability to provide us with more immediate access to marketing, sales, market access and distribution infrastructure to allow us to communicate with the majority of the high-volume neurology and psychiatry prescribers of ADHD medications and the high prescribing ADHD pediatricians and family practice providers.

In addition, we would expect to use multi-channel tactics, including non-personal strategies, to reach physicians, payers, patients and patient caregivers with the right frequency to help drive behavior. In addition to personal promotion, we intend to reach physicians through medical education, direct marketing, journal advertising and electronic health record communication. Advocacy groups, patients and caregivers are extremely active and vocal in the ADHD space. We expect that a direct-to-patient strategy would allow us to access this social group through focused education and advertising, as well as by employing appropriate social media listening and engagement to inform these patients and caregivers.

In March 2023, we entered into the Commercialization Agreement with Indegene. If we receive FDA approval for CTx-1301, Indegene is poised to provide commercialization services for CTx-1301 pursuant to statements of work that will set forth, among other things, the services to be performed by Indegene, the deliverables for such services and the fees to be paid by us. Key services that Indegene is expected to provide, include: (a) medical affairs & pharmacovigilance; (b) pricing, reimbursement and market access; (c) commercial operations; and (d) marketing (including field force). See “Material Agreements – Joint Commercialization Agreement with Indegene, Inc.” below. Cingulate is also considering a strategic pharmaceutical partnership under which Cingulate would co-promote or out-licenses CTx-1301 in the United States, outside the United States, or both. Cingulate is pursuing opportunities on all fronts and we have partnered with a well-known business development company, Global Pharmaceutical Partners (“GPP”). They are actively seeking to identify viable licensing partners.

Manufacturing

Overview

We do not currently own or operate a manufacturing facility. Previously, we utilized Pharmaceutical Manufacturing Research Services, Inc. as our CDMO for the manufacture of our products used in pre-clinical research and clinical trials. In October 2022, we retained Societal CDMO, Inc. (“Societal”) as our new CDMO that will manufacture all clinical, registration, and commercial batches of our lead candidate CTx-1301. Societal will dedicate a specific manufacturing suite within its Gainesville, GA facility and outfit it with proprietary equipment owned by us.

Any third-party manufacturers, facilities, and all lots of drug substance and drug products used in our clinical trials are required to be in compliance with cGMPs. The cGMP regulations include requirements relating to organization of personnel, buildings and facilities, equipment, control of components and drug product containers and closures, production and process controls, packaging and labeling controls, holding and distribution, laboratory controls, records and reports, and returned or salvaged products. The manufacturing facilities where our products are produced must meet cGMP requirements and FDA satisfaction before any product is approved and we can manufacture commercial products. Any third-party manufacturers are also subject to periodic inspections of facilities by the FDA and other authorities, including procedures and operations used in the testing and manufacture of our products to assess our compliance with applicable regulations. In addition, our drug products are classified as Class II controlled substances which requires any future third-party manufacturers to be approved and regulated by the DEA.

Drug Substance

We currently purchase the APIs used in CTx-1301 (Dexmethylphenidate); CTx-1302 (Dextroamphetamine) and CTx-2103 as well as excipients from third-party manufacturers based in the United States. We anticipate entering into commercial supply agreements with many of these manufacturers in the future. The APIs for both CTx-1301 and CTx-1302 are controlled under United States federal law. Dexmethylphenidate, and dextroamphetamine are classified by the DEA as Schedule II controlled substances. As with all stimulate medications, there is a potential for abuse. Consequently, our procurements, manufacturing, shipping, dispensing and storing of our product candidates will be subject to regulation, as described in more detail under the “DEA Regulation” section included elsewhere in this prospectus. The API for CTx-2103 (bupirone) is not as scheduled controlled substance therefore additional DEA regulations will not apply.

Intellectual Property

Proprietary protection

Our commercial success depends in part on our ability to obtain and maintain proprietary protection for our drug candidates, manufacturing and process discoveries and other know-how, to operate without infringing the proprietary rights of others, and to prevent others from infringing on our proprietary rights. We have been building and continue to build our intellectual property portfolio relating to our ADHD drug candidates, and our innovative proprietary PTR drug delivery platform technology, and our technology platform. Our policy is to seek to protect our proprietary position by, among other methods, filing United States and certain foreign patent applications related to our proprietary technology, inventions and improvements that are important to the development and implementation of our business. We also intend to rely on trade secrets, know-how, continuing technological innovation, and potential in-licensing opportunities to develop and maintain our proprietary position. We cannot be sure that patents will be granted with respect to any of our pending patent applications or with respect to any patent applications filed by us in the future, nor can we be sure that any of our existing patents or any patents that may be granted to us in the future will be commercially useful in protecting our technology.

Patent rights

We own or have licensed from BDD Pharma (as defined below) six patents and two patent applications in the United States and 92 patents and 17 patent applications in foreign countries and regions. In addition to the United States, we have patents issued or applications pending in Australia, Brazil, Canada, China, Egypt, Europe (with pending applications before the European Patent Office and patents validated with certain member states of the European Patent Organization), Hong Kong, Israel, India, Japan, Mexico, Russia, Saudi Arabia and South Korea. The patents and patent applications describe and claim certain features of our product candidates, our PTR drug delivery platform technology and our EBL, including claims to the product candidates, methods of making the product candidates and treatment methods using the product candidates.

We have and will continue to actively protect our intellectual property, including filing patent applications for our innovations, prosecuting our pending patent applications, and maintaining and enforcing our issued patents. No assurances can be given that pending patent applications will result in the issuance of a patent or that the examination process will not require us to narrow our claims. In addition, issued patents may be circumvented by third parties, or found unenforceable or invalid if contested before a court or administrative agency. Thus, we may not be able to successfully enforce our patent rights against third parties. No assurance can be given that others will not independently develop a similar or competing technology or design around any patents that may be issued to us.

Patent life determination depends on the date of filing of the application and other factors as promulgated under the patent laws, such as patent term adjustments and extensions. In most countries, including the United States, the patent term is generally 20 years from the earliest claimed filing date of a non-provisional patent application in the applicable country. The patents and, if granted, patent applications owned or licensed to us have expiry dates ranging from 2031 to 2036.

Our owned and in-licensed patents and patent applications are summarized below.

Family/PCT Application	"Title"/(Type of Patent Protection)	Applicant/Owner	Pending Applications	Issued Patents	Patent Expiry
WO2011107750	"Delayed Prolonged Drug Delivery" (A press-coated tablet formulation for a delayed, followed by a prolonged release of an active agent)	DRUG DELIVERY INTERNATIONAL LTD		Germany, Great Britain, France, Japan, Switzerland, United States	March 2031
WO2011107749	"Pulsatile Drug Release" (A press-coated tablet formulation for a delayed, followed by a pulsed release of an active agent)	DRUG DELIVERY INTERNATIONAL LTD		Austria, Belgium, Bulgaria, Czech Republic, Denmark, Finland, France, Germany, Great Britain, Greece, Hungary, Ireland, Italy, Japan, Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey, United States	March 2031
WO2011107755	"Immediate Delayed Release" (A press-coated tablet formulation for a delayed, followed by a pulsed release of an active agent)	DRUG DELIVERY INTERNATIONAL LTD		Austria, Belgium, Bulgaria, Czech Republic, Denmark, Finland, France, Germany, Great Britain, Greece, Hungary, Ireland, Italy, Japan, Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey, United States	March 2031
WO2016075496	"Pharmaceutical Processing" (A method for making a controlled release material)	DRUG DELIVERY INTERNATIONAL LTD	Europe	United States	November 2035

Family/PCT Application	"Title"/(Type of Patent Protection)	Applicant/Owner	Pending Applications	Issued Patents	Patent Expiry
WO2016075495	"Compositions" (A press coated tablet for delayed release of an active ingredient)	DRUG DELIVERY INTERNATIONAL LTD	Egypt	Australia, Austria, Belgium, Brazil, Bulgaria, Canada, Czech Republic, Denmark, Finland, France, Germany, Great Britain, Greece, Hong Kong, Hungary, India, Ireland, Italy, Japan, Mexico, Netherlands, Norway, Poland, Portugal, Romania, Russia, Saudi Arabia, Slovakia, Slovenia, South Korea, Spain, Sweden, Switzerland, Turkey, United States	November 2035
WO2016075497	"Tablet" (A sustained release tablet comprising a wax, a disintegrant and a therapeutic agent)	DRUG DELIVERY INTERNATIONAL LTD	Europe	United States	November 2035
WO2016138440	"Tripulse Release Stimulant Formulations"	CINGULATE THERAPEUTICS LLC	China, Europe, Hong Kong, India, Japan, South Korea, United States	Australia, Canada, Israel	February 2036 (when issued)
WO2022/240849	"Trimodal, Precision-Timed Pulsatile Release Tablet"	CINGULATE THERAPEUTICS LLC	Australia, Brazil, Canada, China, Europe, Israel, India, South Korea, Mexico, United States		May 2042 (when issued)
WO2023/158694	"Trimodal, Precision-Timed Release Tablet"	CINGULATE THERAPEUTICS LLC	PCT International		Feb 2043 (when issued)

Trade secret and other protection

In addition to patented intellectual property, we also rely on trade secrets and proprietary know-how to protect our technology and maintain our competitive position, especially when we do not believe that patent protection is appropriate or can be obtained. Our policy is to require each of our employees, consultants and advisors to execute a confidentiality and inventions assignment agreement before beginning their employment, consulting or advisory relationship with us. The agreements generally provide that the individual must keep confidential and not disclose to other parties any confidential information developed or learned by the individual during the course of the individual's relationship with us except in limited circumstances. These agreements generally also provide that we shall own all inventions conceived by the individual in the course of rendering services to us.

Other intellectual property rights

We seek trademark protection in the United States when appropriate. We have filed for trademark protection for the Cingulate, Cingulate Therapeutics trade dress and mark, which we use with our pharmaceutical research and development as well as products, as well as trade names that could be used with our potential products. We currently have registered trademarks for Cingulate, Cingulate Therapeutics, CTx and Mastery in the United States as well as for our PTR technology.

From time to time, we may find it necessary or prudent to obtain licenses from third party intellectual property holders.

Competition

Our industry has been exemplified by advancing technologies, intense competition, and a strong emphasis on proprietary products. We may face competition from both pharmaceutical as well as generic drug companies as there are several short-acting and extended-release branded products with various formulations, some quite innovative as well as generic versions of these that have yet to satisfy the unmet medical need. We believe the key competitive factors that will affect the development and commercial success of our product candidates include oral administration, therapeutic efficacy which includes immediate onset and entire active day duration, safety and tolerability profiles, market access and pricing. Some competitors have substantially greater financial, technical and human resources than we do; however, we believe the level of branded competition is diminishing and will continue to decline with the loss of exclusivity for Vyvanse. In addition, our prospective competitors may also have more experience and expertise in obtaining marketing approvals from the FDA and foreign regulatory authorities. In addition to product development, testing, approval and promotion, other competitive factors in the pharmaceutical industry include consolidation, product quality and price, product technology, reputation, customer service and access to technical information. As a result, our prospective competitors may be able to develop competing or superior products and compete more aggressively and sustain their competitive advantage over a longer period of time than us. Our products may be rendered obsolete or may lack economic viability in the face of competition.

If approved, both CTx-1301 and CTx-1302 will compete against currently marketed, branded, and generic methylphenidate and amphetamine products for the treatment of ADHD. Some of these currently available products include Janssen's Concerta, Novartis' Focalin XR and Takeda's Adderall XR and Vyvanse, all which have lost exclusivity.

In recent years the ADHD market has seen the entrance of many innovative but niche-focused ADHD products that have not commanded the market share of previous oral stimulants, in particular the extended-release oral stimulants. We are aware that we face competition from small biotechnology companies focused in ADHD with niche products including Aytu, Tris, Corium, Ironshore, and Rhodes. However, we do not consider most of these companies to be significant competitors as their products are only capable of capturing small subsets of the overall market and do not employ substantial commercial efforts; whereas we believe our product candidates offer the potential to overcome longstanding unmet needs for the majority of ADHD patients. In addition, Cingulate, along with a potential commercialization or strategic partner, plans to employ appropriate resources to successfully commercialize its assets.

The FDA recently issued revised guidance for bioequivalence testing of generic extended-release methylphenidate. This new guidance makes it more difficult for new generic products to demonstrate bioequivalence to reference products. We believe this will limit generic competition in the methylphenidate market. It may be difficult for a generic product to show bioequivalence to a new branded, extended-release dextmethylphenidate drug with entire active day duration of effect, such as CTx-1301.

Government Regulation

Government authorities in the United States at the federal, state and local levels and in other countries regulate, among other things, the research, development, testing, manufacturing, quality control, approval, labeling, packaging, storage, record-keeping, promotion, advertising, distribution, post-approval monitoring and reporting, marketing and export and import of drug products. Generally, before a new drug can be marketed, considerable data demonstrating its quality, safety and efficacy must be obtained, organized into a format specific for each regulatory authority, submitted for review and ultimately approved by the applicable regulatory authority.

U.S. Drug Development

In the United States, the FDA regulates drugs under the FDCA and its implementing regulations. Drugs are also subject to other federal, state, and local statutes and regulations. The process of obtaining regulatory approval and maintaining subsequent compliance with applicable federal, state and local statutes and regulations requires the expenditure of substantial time, personnel, and financial resources. These agencies and other federal, state and local entities regulate research and development activities and the testing, manufacture, quality control, labeling, storage, packaging, recordkeeping, tracking, approval, import, export, distribution, advertising and promotion of pharmaceutical products. Failure to comply with the applicable United States regulatory requirements at any time during product development, the approval process, or after approval may subject an applicant to administrative or judicial sanctions. These sanctions could include, among other actions, the FDA's refusal to approve pending applications, withdrawal of an approval, a clinical hold, untitled or warning letters, voluntary product recalls or market withdrawals, product seizures, total or partial suspension of production or distribution injunctions, fines, consent decrees, refusals of government contracts, restitution, disgorgement, or civil and criminal penalties. Any agency or judicial enforcement action could have a material adverse effect on us.

Pharmaceutical product candidates must be approved by the FDA through the NDA process before they may be legally marketed and sold in the United States. Cingulate intends to submit our NDAs under the 505(b)(2) regulatory approval pathway. Development and approval of drugs generally involves the following:

- Completion of preclinical laboratory tests, animal studies and formulation studies according to Good Laboratory Practice (“GLP”) regulations or other applicable regulations;
 - Submission to the FDA of an IND, which must become effective before clinical trials involving humans may begin;
 - Approval by an independent institutional review board (“IRB”) or ethics committee at each clinical trial site before a trial may be initiated at that site;
 - Performance of adequate and well-controlled human clinical trials in accordance with applicable IND regulations, other good clinical practices (“GCPs”) and other clinical-trial related regulations to evaluate the safety and efficacy of the investigational product for each proposed indication;
- Compiling of information demonstrating that the product can be properly formulated, manufactured and stored;
- - Submission of an NDA to the FDA for marketing approval, including payment of application user fees;
 - Satisfactory completion of an FDA pre-approval inspection of the manufacturing facility or facilities where the drug is produced to assess compliance with cGMPs and assure that the facilities, methods and controls are adequate to preserve the drug’s identity, strength, quality and purity;
 - Possible FDA audit of the clinical trial sites to assure compliance with GCPs and the integrity of the clinical data submitted in support of the NDA; and
 - FDA review and approval of the NDA, including satisfactory completion of an FDA advisory committee review of the product candidate, where appropriate or if applicable, prior to any commercial marketing or sale of the product in the United States.

Preclinical Studies

Before testing any drug product candidate in humans, it must undergo rigorous preclinical testing. The preclinical developmental stage generally involves laboratory evaluations of drug chemistry, formulation and stability, as well as studies to evaluate toxicity in animals, which support subsequent clinical testing. The sponsor must submit the results of the preclinical studies, together with manufacturing information, analytical data, any available clinical data or literature and a proposed clinical protocol, to the FDA as part of the IND. An IND is a request for authorization from the FDA to administer an investigational product to humans, and must become effective before human clinical trials may begin.

Preclinical studies include laboratory evaluation of product candidate chemistry and formulation, as well as in vitro and animal studies, to assess the potential for adverse events and in some cases to establish a rationale for therapeutic use. The conduct of preclinical studies is subject to federal regulations and requirements, including GLP regulations for safety and toxicology studies. Some long-term preclinical testing, such as animal tests of reproductive adverse events and carcinogenicity, may continue after an IND for an investigational drug candidate is submitted to the FDA and human clinical trials have been initiated.

In the case of testing data to support a 505(b)(2) NDA, some or all of the necessary preclinical data may be referenced in literature or the FDA’s previous findings of safety and efficacy for an RLD.

Clinical Trials

All clinical trials must be conducted under the supervision of qualified investigators. Clinical trials are conducted under protocols detailing the objectives of the study, the parameters to be used in monitoring the safety and effectiveness criteria to be evaluated. Each protocol must be submitted to the FDA as part of the IND. Study subjects must sign an informed consent form before participating in a clinical trial. There are also requirements governing the reporting of on-going clinical trials and clinical trial results to public registries. An IND automatically becomes effective 30 days after receipt by the FDA, unless before that time the FDA raises concerns or questions related to one or more proposed clinical trials and places the clinical trial on a clinical hold. In such a case, the IND sponsor and the FDA must resolve any outstanding concerns before the clinical trial can begin. As a result, submission of an IND may not result in the FDA allowing clinical trials to commence. Clinical holds may also be imposed by the FDA at any time before or during studies due to safety concerns or non-compliance.

In addition, an IRB representing each institution that is participating in the clinical trial must review and approve the plan for any clinical trial before it commences at that institution, and the IRB must thereafter conduct a continuing review and reapprove the trial at least annually. The IRB must review and approve, among other things, the trial protocol and informed consent information to be provided to clinical trial subjects. An IRB must operate in compliance with FDA regulations. Information about certain clinical trials, including details of the protocol and eventually study results, also must be submitted within specific timeframes to the National Institutes of Health for public dissemination on the ClinicalTrials.gov data registry. Information related to the product, patient population, phase of investigation, study sites and investigators and other aspects of the clinical trial is made public as part of the registration of the clinical trial. Sponsors are also obligated to disclose the results of their clinical trials after completion. Disclosure of the results of these trials can be delayed in some cases for up to two years after the date of completion of the trial. Failure to timely register a covered clinical study or to submit study results as provided for in the law can give rise to civil monetary penalties and also prevent the non-compliant party from receiving future grant funds from the federal government. The National Institutes of Health's ("NIH") Final Rule on ClinicalTrials.gov registration and reporting requirements became effective in 2017, and both NIH and FDA have signaled the government's willingness to begin enforcing those requirements against non-compliant clinical trial sponsors.

Clinical trials conducted to support an NDA are generally conducted in three sequential phases that may overlap or be combined.

- Phase 1 - clinical trials generally involve a relatively small number of healthy volunteers who are initially exposed to a single dose or multiple doses of the product candidate. The primary purpose of these clinical trials is to assess the safety, dosage tolerance, structure-activity relationships, mechanism of action, absorption, metabolism, distribution, and excretion in healthy volunteers or subjects with the target disease or condition. Changes to this general format that are suitable to a product candidate or a specific patient population may occur but usually are agreed to in advance with the FDA.
- Phase 2 - clinical trials typically involve studies in a limited patient population to identify possible adverse effects and safety risks, to preliminarily evaluate the efficacy of the product for specific targeted diseases and to determine dosage tolerance and optimal dosage.
- Phase 3 - clinical trials are undertaken in larger subject populations to further evaluate dosage, clinical efficacy and safety in an expanded patient population, often at geographically dispersed clinical study sites. These studies are intended to establish the overall risk-benefit ratio of the product candidate and provide, if appropriate, an adequate basis for product labeling. These trials may include comparisons with placebo and/or other comparator treatments. The duration of treatment is often extended to mimic the actual use of a product during marketing. These trials may be done globally to support global registrations so long as the global sites are also representative of the United States population and the conduct of the study at global sites comports with FDA regulations and guidance, such as compliance with GCPs.

By following the 505(b)(2) regulatory approval pathway, the applicant may reduce some of the burden of developing a drug by relying on investigations not conducted by the applicant and for which the applicant has not obtained a right of reference, such as prior investigations involving the RLD. In such cases, some clinical trials may not be required or may be otherwise limited; however, Phase 1 trials to establish bioavailability and pharmacokinetic characteristics of the product candidate and at least one Phase 3 pivotal trial are usually required to support a 505(b)(2) NDA.

Post-approval trials, sometimes referred to as Phase 4, may be conducted after initial marketing approval. These trials are used to gain additional experience from the treatment of patients in the intended therapeutic indication. In certain instances, the FDA may mandate the performance of Phase 4 clinical trials as a condition of approval of an NDA.

During the development of a new drug product, sponsors have the opportunity to meet with the FDA at certain points, including prior to submission of an IND, at the end of phase 2, and before submission of an NDA. These meetings can provide an opportunity for the sponsor to share information about the data gathered to date, for the FDA to provide advice, and for the sponsor and the FDA to reach agreement on the next phase of development. Sponsors typically meet with the agency before initiating Phase 3 clinical trials to present their plans for the pivotal trial that they believe will support approval of the new drug product.

Concurrent with clinical trials, companies usually complete additional animal studies and must also develop additional information about the physical characteristics of the drug product and finalize a process for manufacturing the product in commercial quantities in accordance with cGMP requirements. The manufacturing process must be capable of consistently producing quality batches of the product candidate and, among other things, the manufacturer must develop methods for testing the identity, strength, quality, and purity of the final drug product. Additionally, appropriate packaging must be selected and tested, and stability studies must be conducted to demonstrate that the product candidate does not undergo unacceptable deterioration over its shelf life.

NDA and FDA Review Process

Assuming successful completion of the required clinical testing, the results of the preclinical studies and clinical trials, along with detailed descriptions of the product's chemistry, manufacturing, and controls, proposed labeling and other relevant information are submitted to the FDA as part of an NDA requesting approval to market the product. The cost of preparing and submitting an NDA is substantial. Under federal law, the submission of most NDAs is additionally subject to a substantial application user fee, currently over \$3.24 million for an NDA with clinical information, and the manufacturer and/or sponsor under an approved NDA is also subject to an annual program fee, currently approximately \$394,000. These fees are typically increased annually. Fee waivers or reductions are available in certain circumstances. One such fee waiver is available for applicants that are small businesses, meaning the applicant (including any affiliates) employs fewer than 500 employees, does not have an approved marketing application for a product that has been introduced or delivered for introduction into interstate commerce, and is submitting its first marketing application.

Section 505(b)(1) and Section 505(b)(2) of the FDCA are the provisions governing the type of NDAs that may be submitted under the FDCA. Section 505(b)(1) is the traditional pathway for new chemical entities when no other new drug containing the same active pharmaceutical ingredient or active moiety, which is the molecule or ion responsible for the action of the drug substance, has been approved by the FDA. As an alternate pathway to FDA approval for new or improved formulations of previously approved products, a company may file a Section 505(b)(2) NDA. Section 505(b)(2) permits the submission of an NDA where at least some of the information required for approval comes from studies not conducted by or for the applicant and for which the applicant has not obtained a right of reference.

Once the FDA receives an application, it has 60 days to review the NDA to determine if it is substantially complete to permit a substantive review, before it accepts the application for filing and may request additional information rather than accepting the applications. Once the submission is accepted for filing, the FDA begins an in-depth review of the NDA. Under the goals and policies agreed to by the FDA under the Prescription Drug User Fee Act (PDUFA) VI, the agency seeks to review applications for standard review drug products within 10 months from the filing acceptance date, and applications for priority review drugs within six months from the filing acceptance date. The FDA may grant a priority review designation to drugs that are intended to treat a serious condition and that the agency determines offer major advances in treatment, or provide a treatment where no adequate therapy exists. The FDA does not always meet its PDUFA goal dates for standard and priority NDAs, and the review process for both standard and priority reviews may be extended by FDA for three additional months to consider additional, late-submitted information, or information intended to clarify information already provided in the submission in response to FDA review questions.

Before approving an NDA, the FDA will typically conduct a pre-approval inspection of the manufacturing facilities for the product candidate to determine whether they comply with cGMPs, unless the facility has recently had an FDA inspection. The FDA will not approve the product unless it determines that the manufacturing processes and facilities are in compliance with cGMP requirements and adequate to assure consistent production of the product to specifications. Additionally, the FDA may refer applications for novel drug products or drug products which present difficult questions of safety or efficacy to an advisory committee, typically a panel that includes clinicians and other experts, for review, evaluation and a recommendation regarding whether the application should be approved and, if so, under what conditions. The FDA is not bound by the recommendations of an advisory committee, but it considers them carefully when making decisions. NDAs submitted under Section 505(b)(2) are typically not referred to an Advisory Panel for consideration unless new safety information is revealed in the review cycle.

As part of the NDA review process, the FDA likely will re-analyze the clinical trial data, which could result in extensive discussions between the FDA and the applicant. Additionally, the FDA will typically inspect one or more clinical sites to assure compliance with GCPs and the IND protocol requirements and to assure the integrity of the clinical data submitted to the FDA. The review and evaluation of an NDA by the FDA is extensive and time consuming and may take longer than originally planned to complete, and we may not receive a timely approval, if at all.

After the FDA evaluates an NDA, it will issue either an approval letter or a complete response letter (“CRL”). An approval letter authorizes the commercial marketing of the drug with prescribing information for specific indications. A CRL indicates that the review cycle of the application is complete, and that the application will not be approved in its present form. A CRL generally describes the deficiencies in the NDA identified by the FDA and may require substantial additional clinical data or other significant and time-consuming requirements related to clinical trials, nonclinical studies or manufacturing. Additionally, the CRL may include recommended actions that the applicant might take to place the application in a condition for approval. If a CRL is issued, the applicant may either resubmit the NDA, addressing all of the deficiencies identified in the letter, or withdraw the application. If, or when, those deficiencies have been addressed to the FDA’s satisfaction in a resubmission of the NDA, the FDA will issue an approval letter to the applicant. The FDA has committed to reviewing such resubmissions in response to an issued CRL in either two or six months depending on the type of information included. Even with the submission of this additional information, however, the FDA may decide that the NDA does not satisfy the regulatory criteria for approval. Data obtained from clinical trials are not always conclusive, and the FDA may interpret data differently than the sponsor interprets the same data.

There is no assurance that the FDA will approve a product candidate for marketing, and the sponsor may encounter significant difficulties or costs during the review process. Even if a product receives marketing approval, the approval may be significantly limited to specific diseases and dosages or the indications for use may otherwise be limited, which could restrict the commercial value of the product. Further, the FDA may require that certain contraindications, warnings or precautions be included in the product labeling, or it may condition approval on changes to the proposed labeling. The FDA also may condition approval on the development of adequate controls and specifications for manufacturing and a commitment to conduct post-marketing testing and surveillance to monitor the potential effects and efficacy. For example, the FDA may require Phase 4 trials designed to further assess a drug’s safety and efficacy.

The FDA may also place restrictions and conditions on product distribution, prescribing, or dispensing in the form of a REMS plan in addition to the approved labeling, to help ensure that the benefits of the drug outweigh its risks. A REMS could include medication guides for patients, communication plans for health care professionals, and/or elements to assure safe use (“ETASU”). ETASU can include, but are not limited to, special training or certification for prescribing or dispensing, restricted distribution requirements, dispensing only under certain circumstances, special monitoring, and the use of patient registries. The FDA determines the requirement for a REMS, as well as the specific REMS provisions, on a case-by-case basis. If the FDA concludes a REMS plan is needed, the sponsor of the NDA must submit a proposed REMS plan. The FDA will not approve the NDA without an approved REMS, if required. Based on the required warnings included in the approved labeling of drug products containing the same drug substance as our product candidates (dexamethylphenidate and dextroamphetamine), we expect that as part of the NDA review and approval process, FDA will require at least some of our product candidates, in particular CTx-1301 and CTx-1302, to include black box warnings as part of their labeling.

Any of the above-mentioned limitations on approval or marketing could restrict the commercial promotion, distribution, prescription or dispensing of products and therefore limit commercial success. Marketing approval may be withdrawn for non-compliance with regulatory requirements or if problems occur following initial marketing.

After NDA approval, some types of changes to the approved product, such as adding new indications, manufacturing changes and additional labeling claims, are subject to further testing requirements, FDA notification, and FDA review and approval. Further, should new safety information arise, additional testing, product labeling or FDA notification may be required.

Hatch-Waxman Act and New Drug Marketing Exclusivity

Under the Drug Price Competition and Patent Term Restoration Act of 1984, otherwise known as the Hatch-Waxman Amendments to the FDCA, Congress authorized the FDA to approve generic drugs that are the same as drugs previously approved by the FDA under the NDA provisions of the statute and also enacted Section 505(b)(2) of the FDCA. To obtain approval of a generic drug, an applicant must submit an ANDA, to the agency. In support of such applications, a generic manufacturer may rely on the preclinical and clinical testing conducted for a drug product previously approved under an NDA, known as the RLD. Specifically, in order for an ANDA to be approved, the FDA must find that the generic version is identical to the RLD with respect to the active ingredients, the route of administration, the dosage form, and the strength of the drug. In contrast, Section 505(b)(2) permits the filing of an NDA where at least some of the information required for approval comes from studies not conducted by or for the applicant and for which the applicant has not obtained a right of reference. A Section 505(b)(2) applicant may eliminate the need to conduct certain preclinical or clinical studies, if it can establish that reliance on studies conducted for a previously-approved product is scientifically appropriate. Unlike the ANDA pathway used by developers of bioequivalent versions of innovator drugs, which does not allow applicants to submit new clinical data other than bioavailability or bioequivalence data, the 505(b)(2) regulatory pathway does not preclude the possibility that a follow-on applicant would need to conduct additional clinical trials or nonclinical studies; for example, they may be seeking approval to market a previously approved drug for new indications or for a new patient population that would require new clinical data to demonstrate safety or effectiveness. The FDA may then approve the new product for all or some of the label indications for which the RLD has been approved, or for any new indication sought by the Section 505(b)(2) applicant, as applicable.

In seeking approval of an NDA or a supplement thereto, the NDA sponsor is required to list with the FDA each patent with claims that cover the sponsor's product or an approved method of using the product. Upon approval of an NDA, each of the patents listed in the application for the drug is published in the FDA publication Approved Drug Products with Therapeutic Equivalence Evaluations, commonly known as the Orange Book. When an ANDA applicant submits its application to the FDA, the applicant is required to certify to the FDA concerning any patents listed in the Orange Book for the RLD, except for patents covering methods of use for which the follow-on applicant is not seeking approval. To the extent a Section 505(b)(2) applicant is relying on studies conducted for an already approved product, such an applicant is also required to certify to the FDA concerning any patents listed for the approved product in the Orange Book to the same extent that an ANDA applicant would.

Specifically, any applicant who subsequently files an ANDA or 505(b)(2) NDA that references the drug listed in the Orange Book must certify to the FDA that with respect to each published patent, (i) the required patent information has not been filed by the original applicant of the RLD; (ii) the listed patent already has expired; (iii) the listed patent has not expired, but will expire on a specified date and approval is sought after patent expiration; or (iv) the listed patent is invalid, unenforceable or will not be infringed by the manufacture, use or sale of the new product. These are known as Paragraph I, II, III, and IV certifications, respectively.

If a Paragraph I or II certification is filed, the FDA may make approval of the application effective immediately upon completion of its review. If a Paragraph III certification is filed, the approval may be made effective on the patent expiration date specified in the application, although a tentative approval may be issued before that time. If an application contains a Paragraph IV certification, a series of events will be triggered, the outcome of which will determine the effective date of approval of the ANDA or 505(b)(2) application.

A certification that the new product will not infringe the RLD's listed patents or that such patents are invalid is called a Paragraph IV certification. If the follow-on applicant has provided a Paragraph IV certification to the FDA, the applicant must also send notice of the Paragraph IV certification to the NDA and patent holders for the RLD once the applicant's NDA has been accepted for filing by the FDA. The NDA and patent holders may then initiate a legal challenge to the Paragraph IV certification. The filing of a patent infringement lawsuit within 45 days of their receipt of a Paragraph IV certification automatically prevents the FDA from approving the ANDA or 505(b)(2) NDA until the earlier of 30 months after the receipt of the Paragraph IV notice, expiration of the patent or a decision in the infringement case that is favorable to the ANDA or 505(b)(2) applicant. Alternatively, if the listed patent holder does not file a patent infringement lawsuit within the required 45-day period, the follow-on applicant's ANDA or 505(b)(2) NDA will not be subject to the 30-month stay.

In addition, under the Hatch-Waxman Amendments, the FDA may not approve an ANDA or 505(b)(2) NDA until any applicable period of non-patent exclusivity for the referenced RLD has expired. These market exclusivity provisions under the FDCA also can delay the submission or the approval of certain applications. The FDCA provides a five-year period of non-patent marketing exclusivity within the United States to the first applicant to gain approval of a NDA for a drug containing a new chemical entity. A drug is a new chemical entity if the FDA has not previously approved any other new drug containing the same active moiety, which is the molecule or ion responsible for the action of the drug substance. During the exclusivity period, the FDA may not accept for review an ANDA or a 505(b)(2) NDA submitted by another company for another version of such drug where the applicant does not own or have a legal right of reference to all the data required for approval. However, an application may be submitted after four years if it contains a certification of patent invalidity or non-infringement.

The FDCA also provides three years of marketing exclusivity for a NDA, 505(b)(2) NDA or supplement to an existing NDA if new clinical investigations, other than bioavailability studies, that were conducted or sponsored by the applicant are deemed by the FDA to be essential to the approval of the application, for example, new indications, dosages or strengths of an existing drug. This three-year exclusivity covers only the conditions of use associated with the new clinical investigations and does not prohibit the FDA from approving follow-on applications for drugs containing the original active agent. Five-year and three-year exclusivity also will not delay the submission or approval of a traditional NDA filed under Section 505(b)(1) of the FDCA. However, an applicant submitting a traditional NDA would be required to either conduct or obtain a right of reference to all of the preclinical studies and adequate and well-controlled clinical trials necessary to demonstrate safety and effectiveness.

Patent Term Extension

After NDA approval, owners of relevant drug patents may apply for up to a five-year patent term extension. The allowable patent term extension is calculated as half of the drug's testing phase – the time between when the IND becomes effective and NDA submission – and all of the review phase – the time between NDA submission and approval, up to a maximum of five years. The time can be shortened if FDA determines that the applicant did not pursue approval with due diligence. The total patent term after the extension may not exceed 14 years. For patents that might expire during the application phase, the patent owner may request an interim patent extension. An interim patent extension increases the patent term by one year and may be renewed up to four times. For each interim patent extension granted, the post-approval patent extension is reduced by one year. The director of the Patent and Trademark Office (PTO) must determine that approval of the drug covered by the patent for which a patent extension is being sought is likely. Interim patent extensions are not available for a drug for which an NDA has not been submitted.

Pediatric Clinical Trials and Exclusivity

Under the Pediatric Research Equity Act (“PREA”), an NDA or certain types of supplements to an NDA must contain data to assess the safety and efficacy of the drug for the claimed indications in all relevant pediatric subpopulations and to support dosing and administration for each pediatric subpopulation for which the product is safe and effective. The FDA may grant deferrals for submission of pediatric data or full or partial waivers.

For purposes of satisfying the requirements of PREA, the appropriate age ranges to be studied may vary, depending on the pharmacology of the drug or biological product, the manifestations of the disease in various age groups, and the ability to measure the response to therapy. PREA requires pediatric assessments to be gathered “using appropriate formulations for each age group for which the assessment is required” (section 505B(a)(2)(A) of the Act). Under PREA, applicants must submit requests for approval of the pediatric formulation used in their pediatric studies, and failure to submit such a request may render the product misbranded (section 505B(d) of the Act). FDA interprets the language “request for approval of a pediatric formulation” to mean that applicants must submit an application or supplemental application for any not previously approved formulation(s) used to conduct their pediatric studies.

The Food and Drug Administration Safety and Innovation Act, which was signed into law on July 9, 2012, amended the FDCA to require that a sponsor who is planning to submit an NDA for a new active ingredient, new indication, new dosage form, new dosing regimen or new route of administration submit an initial Pediatric Study Plan (“iPSP”) within 60 days of an end-of-Phase 2 meeting or, if there is no such meeting, as early as practicable before the initiation of the Phase 3 or Phase 2/3 trial. The initial PSP must include an outline of the pediatric trial(s) that the sponsor plans to conduct, including objectives and design, age groups, relevant endpoints and statistical approach, or a justification for not including such information, and any request for a deferral of pediatric assessments or a full or partial waiver of the requirement to provide data from pediatric trials along with supporting information. The FDA and the sponsor must reach an agreement on the PSP, but the sponsor can submit amendments to an agreed-upon initial PSP at any time if changes to the pediatric plan need to be considered based on data collected from nonclinical studies, early phase clinical trials, and other clinical development programs. We have submitted our iPSP, and it was accepted. We continue to be in discussions with the FDA regarding our PREA obligations.

The Best Pharmaceuticals for Children Act provides NDA holders a six-month extension of any exclusivity – patent or non-patent – for a drug if certain conditions are met, including satisfaction of a pediatric trial(s) agreed with FDA as a Pediatric Written Request. Conditions for pediatric exclusivity include the FDA’s determination that information relating to the use of a new drug in the pediatric population may produce health benefits in that population, the FDA making a written request for pediatric clinical trials, and the applicant agreeing to perform, and reporting on, the requested clinical trials within the statutory timeframe. This six-month exclusivity may be granted if an NDA sponsor submits pediatric data that fairly respond to the written request from the FDA for such data. Those data do not need to show the product to be effective in the pediatric population studied; rather, if the clinical trial is deemed to fairly respond to the FDA’s request, the additional protection is granted. Although this is not a patent term extension, it effectively extends the regulatory period during which the FDA cannot approve another application.

Disclosure of Clinical Trial Information

Sponsors of clinical trials of FDA-regulated products are required to register and disclose certain clinical trial information on the website www.clinicaltrials.gov. Information related to the product, patient population, phase of investigation, trial sites and investigators, and other aspects of a clinical trial are then made public as part of the registration. Sponsors are also obligated to disclose the results of their clinical trials after completion. Disclosure of the results of clinical trials can be delayed in certain circumstances for up to two years after the date of completion of the trial. Competitors may use this publicly available information to gain knowledge regarding the progress of clinical development programs as well as clinical trial design.

Post-Approval Requirements

Following approval of a drug product, the manufacturer and the approved drug product are subject to pervasive and continuing regulation by the FDA, including, among other things, monitoring and record-keeping activities, reporting of adverse experiences with the product, product sampling and distribution restrictions, complying with promotion and advertising requirements, which include restrictions on promoting drugs for unapproved uses or patient populations (i.e., “off-label use”) and limitations on industry-sponsored scientific and educational activities. Although physicians may prescribe legally available products for off-label uses, manufacturers may not market or promote such uses. The FDA and other agencies actively enforce the laws and regulations prohibiting the promotion of off-label uses, and a company that is found to have improperly promoted off-label uses may be subject to significant liability, including adverse publicity, enforcement action by the FDA, corrective advertising, consent decrees and the full range of civil and criminal penalties available to the FDA. Prescription drug promotional materials also must be submitted to the FDA in conjunction with their first use. Further, if there are any modifications to the approved drug product, including changes in indications, labeling or manufacturing processes or facilities, the applicant may be required to submit and obtain FDA approval of a new NDA or NDA supplement, which may require the applicant to develop additional data or conduct additional preclinical studies or clinical trials.

FDA regulations require that products be manufactured in specific approved facilities and in accordance with cGMPs. The cGMP regulations include requirements relating to organization of personnel, buildings and facilities, equipment, control of components and drug product containers and closures, production and process controls, packaging and labeling controls, holding and distribution, laboratory controls, records and reports and returned or salvaged products. The manufacturing facilities for our product candidates must meet cGMP requirements and satisfy the FDA or comparable foreign regulatory authorities' satisfaction before any product is approved and our commercial products can be manufactured. These manufacturers must comply with cGMPs that require, among other things, quality control and quality assurance, the maintenance of records and documentation and the obligation to investigate and correct any deviations from cGMP. Manufacturers and other entities involved in the manufacture and distribution of approved drugs are required to register their establishments with the FDA and certain state agencies, and are subject to periodic unannounced inspections by the FDA and certain state agencies for compliance with cGMP requirements and other laws. Accordingly, manufacturers must continue to expend time, money and effort in the area of production and quality control to maintain compliance with cGMPs. The discovery of violative conditions, including failure to conform to cGMPs, could result in enforcement actions including cessation of manufacturing activities. The discovery of problems with a product after approval may result in restrictions on a product, manufacturer or holder of an approved NDA, including recalls and product seizures.

Further, changes to the manufacturing process are strictly regulated and often require prior FDA approval before being implemented, or FDA notification. If there are any modifications to the drug, including changes to indications, labeling, or manufacturing processes or facilities, the applicant may be required to submit and obtain FDA approval of a supplemental NDA or new NDA, which may require the applicant to develop additional data or conduct additional pharmaceutical development/formulation studies, nonclinical studies or clinical trials.

Once an approval of a prescription drug is granted, the FDA may withdraw the approval if compliance with regulatory requirements and standards is not maintained or if problems occur after the product reaches the market. Later discovery of previously unknown problems with a product, including adverse events of unanticipated severity or frequency, or with manufacturing processes, or failure to comply with regulatory requirements, may result in mandatory revisions to the approved labeling to add new safety information; imposition of post-market or clinical trials to assess new safety risks; or imposition of distribution or other restrictions under a REMS program. Other potential consequences include, among other things:

- restrictions on the marketing or manufacturing of the product, complete withdrawal of the product from the market or product recalls;
- fines, warning letters or other enforcement-related letters or clinical holds on post-approval clinical trials;
- refusal of the FDA to approve pending NDAs or supplements to approved NDAs, or suspension or revocation of product approvals;
- product seizure or detention, or refusal to permit the import or export of products;
- injunctions or the imposition of civil or criminal penalties;
- consent decrees, corporate integrity agreements, debarment, or exclusion from federal health care programs; and
- mandated modification of promotional materials and labeling and the issuance of corrective information.

In addition, the distribution of prescription pharmaceutical products, including samples, is subject to the Prescription Drug Marketing Act (“PDMA”), which regulates the distribution of drugs and drug samples at the federal level, and sets minimum standards for the registration and regulation of drug distributors by the states. Both the PDMA and state laws regulate the distribution of prescription pharmaceutical product samples and impose requirements to ensure accountability in distribution.

Moreover, the Drug Supply Chain Security Act (“DSCSA”) was enacted in 2013 with the aim of building an electronic system to identify and trace certain prescription drugs distributed in the United States. The DSCSA mandates phased-in and resource-intensive obligations for pharmaceutical manufacturers, wholesale distributors, and dispensers over a 10-year period that is expected to culminate in November 2023. From time to time, new legislation and regulations may be implemented that could significantly change the statutory provisions governing the approval, manufacturing and marketing of prescription drug products regulated by the FDA. It is impossible to predict whether further legislative or regulatory changes will be enacted, or FDA regulations, guidance or interpretations changed or what the impact of such changes, if any, may be.

DEA Regulation

The active ingredients in our current drug product candidates are listed by the DEA as controlled substances under the CSA. The CSA and its implementing regulations establish a closed chain of distribution for entities handling controlled substances and impose registration, record-keeping and reporting, security, storage, procurement, manufacturing, distribution, importation, exportation, labeling, packaging, and other requirements on such entities. The DEA requires individuals or entities that handle controlled substances to comply with these requirements to ensure legitimate use and prevent diversion of controlled substances to illicit channels of commerce.

The CSA categorizes controlled substances into one of five schedules, Schedule I, II, III, IV or V, depending on the potential for abuse and physical or psychological dependence. Schedule I substances by definition have a high potential for abuse, have no currently accepted medical use in treatment in the United States and lack accepted safety for use under medical supervision. They may not be marketed or sold for dispensing to patients in the United States. Pharmaceutical products having a currently accepted medical use and that are otherwise approved for marketing may be listed as Schedule II, III, IV, or V substances, with Schedule II substances presenting the highest potential for abuse and physical or psychological dependence, and Schedule V substances presenting the lowest relative potential for abuse and dependence. Schedule II substances (as well as substances defined as narcotics in any Schedule) are subject to the strictest requirements for registration, security, recordkeeping and reporting, and the distribution and dispensing of these substances are highly regulated. For example, all Schedule II drug prescriptions must be signed by a physician, physically presented to a pharmacist in most situations, unless they are electronically prescribed pursuant to DEA regulations, and may not be refilled. The active ingredients in our product candidates (dexamethylphenidate and dextroamphetamine) are Schedule II controlled substances and are under various restrictions. Consequently, the procurement, manufacturing, shipping, storage, sales and use of the products, if approved, will be subject to a high degree of regulation.

Facilities that manufacture, distribute, import or export controlled substances must register annually with the DEA. The registration is specific to the particular location, activity and controlled substance schedule. For example, separate registrations are needed for import and manufacturing, and each registration will specify which schedules of controlled substances are authorized. Similarly, separate registrations are also required for separate facilities.

The DEA inspects manufacturers, distributors, importers, and exporters to review compliance with the CSA and DEA regulations, including security, record keeping and reporting prior to issuing a controlled substance registration and on a periodic basis. The specific security requirements vary by the type of business activity and the schedule and quantity of controlled substances handled by the registrant, with the most stringent requirements applying to Schedule I and Schedule II substances. Required security measures include background checks on employees and physical control of inventory through measures such as vaults and inventory reconciliations. Manufacturers and distributors must also submit regular reports to the DEA of the distribution of Schedule I and II controlled substances, Schedule III narcotic substances, and other designated substances. Records must be maintained for the handling of all controlled substances, for example, a complete and accurate record of each substance manufactured, received, sold, delivered, or otherwise disposed of. All DEA registrants must also report any controlled substance thefts or significant losses and must obtain authorization to destroy or dispose of controlled substances. In addition to maintaining an importer and/or exporter registration, importers and exporters of controlled substances must obtain a permit for every import or export of a Schedule I or II substance and a narcotic substance in Schedule III, IV and V. For all other drugs in Schedule III, IV and V, importers and exporters must submit an import or export declaration.

In addition, a DEA quota system controls and limits the availability and production of controlled substances in Schedule I or II. The DEA establishes annually an aggregate quota for how much of a controlled substance may be produced in total in the United States based on the DEA's estimate of the quantity needed to meet legitimate scientific and medicinal needs. The limited aggregate number of opioids and stimulants that the DEA allows to be produced in the United States each year is allocated among individual companies, which must submit applications annually to the DEA for individual production and procurement quotas. We must receive an annual quota from the DEA in order to produce or procure our Schedule II substance for use in manufacturing of our product and product candidates. The DEA may adjust aggregate production quotas and individual production and procurement quotas from time to time during the year, although the DEA has substantial discretion in whether or not to make such adjustments. Distributions of any Schedule I or II controlled substance must also be accompanied by special order forms, with copies provided to the DEA.

Failure to maintain compliance with applicable DEA requirements, particularly as manifested in loss or diversion or controlled substances, can result in administrative, civil or criminal enforcement action. The DEA may seek civil penalties, refuse to renew necessary registrations, or initiate administrative proceedings to revoke those registrations. In some circumstances, violations could lead to criminal prosecution.

The various states and the District of Columbia also regulate controlled substances and impose similar licensing, recordkeeping, and reporting requirements on entities that handle controlled substances. Entities must independently comply with the various state requirements in addition to the federal controlled substance requirements.

Pharmaceutical Coverage, Pricing and Reimbursement

Significant uncertainty exists as to the coverage and reimbursement status of any product candidates for which we may obtain regulatory approval. In the United States, sales of pharmaceutical products depend in significant part on the availability of coverage and adequate reimbursement by third-party payors, such as state and federal governmental authorities, including those that administer the Medicare and Medicaid programs, managed care organizations and private insurers. Decisions regarding the extent of coverage and amount of reimbursement to be provided for each of our product candidates will be made on a plan-by-plan basis. The Medicare and Medicaid programs are often used as models by private payors and other governmental payors to develop their coverage and reimbursement policies for drugs. However, one payor's determination to provide coverage for a product does not assure that other payors will also provide coverage, and adequate reimbursement, for the product. Each third-party payor determines whether or not it will provide coverage for a drug, what amount it will pay providers for the drug, and on what tier of its formulary the drug will be placed. These decisions are influenced by the existence of multiple drug products within a therapeutic class and the net cost to the plan, including the amount of the prescription price, if any, rebated by the drug's manufacturer. Typically, generic versions of drugs are placed in a preferred tier. The position of a drug on the formulary generally determines the co-payment that a patient will need to make to obtain the drug and can strongly influence the adoption of a drug by patients and physicians. Patients who are prescribed treatments for their conditions and providers performing the prescribed services generally rely on third-party payors to reimburse all or part of the associated healthcare costs. Patients are unlikely to use our products unless coverage is provided, and reimbursement is adequate to cover a significant portion of the cost of our products. Additionally, a third-party payor's decision to provide coverage for a drug does not imply that an adequate reimbursement rate will be approved. Also, third-party payors are developing increasingly sophisticated methods of controlling healthcare costs. As a result, coverage, reimbursement and placement determinations are complex and are often the subject of extensive negotiations between the payor and the owner of the drug.

Unless we enter into a strategic collaboration under which our collaborator assumes responsibility for seeking coverage and reimbursement for a given product, we will be responsible for negotiating coverage, reimbursement and placement decisions for our product candidates. Coverage, reimbursements and placement decisions for a new product are based on many factors including the coverage, reimbursement and placement of already marketed branded drugs for the same or similar indications, the safety and efficacy of the new product, availability of generics for similar indications, the clinical need for the new product and the cost-effectiveness of the product.

Within the Medicare program, CTx-1301, CTx-1302 and CTx-2103, which, if approved would likely be self-administered drugs, would likely be reimbursed under the expanded prescription drug benefit known as Medicare Part D. This program is a voluntary Medicare benefit administered by private plans that operate under contracts with the federal government. These plans develop formularies that determine which products are covered and what co-pay will apply to covered drugs. The plans have considerable discretion in establishing formularies and tiered co-pay structures, negotiating rebates with manufacturers and placing prior authorization and other restrictions on the utilization of specific products, subject to review by CMS for discriminatory practices. These Part D plans negotiate discounts with drug manufacturers, which are passed on, in whole or in part, to each of the plan's enrollees through reduced premiums.

If a drug product is reimbursed by Medicare or Medicaid, pricing and rebate programs must comply with, as applicable, the Medicare Prescription Drug Improvement and Modernization Act of 2003 as well as the Medicaid rebate requirements of the Omnibus Budget Reconciliation Act of 1990 ("OBRA") and the Veterans Health Care Act of 1992, each as amended. Among other things, the OBRA requires drug manufacturers to pay rebates on prescription drugs to state Medicaid programs and empowers states to negotiate rebates on pharmaceutical prices, which may result in prices for our future products that will likely be lower than the prices we might otherwise obtain. If products are made available to authorized users of the Federal Supply Schedule of the General Services Administration, additional laws and requirements apply.

Third-party payors, including the United States government, continue to apply downward pressure on the reimbursement of pharmaceutical products. For example, the Inflation Reduction Act of 2022 reduces the US government reimbursement for some drugs. Also, the trend towards managed health care in the United States and the concurrent growth of organizations such as health maintenance organizations may result in lower reimbursement for pharmaceutical products. We expect that these trends will continue as these payors implement various proposals or regulatory policies. There are currently, and we expect that there will continue to be, a number of federal and state proposals to implement controls on reimbursement and pricing, directly and indirectly.

Other Healthcare Laws and Compliance Requirements

As we are commercializing our product candidates, if they are approved by the FDA or comparable foreign regulatory agencies for marketing, we will be subject to additional healthcare statutory and regulatory requirements and enforcement by federal government and the states and foreign governments in the jurisdictions in which we conduct our business. Healthcare providers, physicians and third-party payors will play a primary role in the recommendation and prescription of any other product candidates for which we obtain marketing approval. Our arrangements with third-party payors and customers expose us to broadly applicable fraud and abuse and other healthcare laws and regulations that constrain the business or financial arrangements and relationships through which we market, sell and distribute any products for which we obtain marketing approval.

Restrictions under applicable federal and state healthcare laws and regulations include the following:

- The federal Anti-Kickback Statute prohibits, among other things, any person from knowingly and willfully offering, soliciting, receiving or providing remuneration, directly or indirectly, to induce either the referral of an individual, for an item or service or the purchasing or ordering of a good or service, for which payment may be made under federal healthcare programs such as the Medicare and Medicaid programs. The federal Anti-Kickback Statute is subject to evolving interpretations. In the past, the government has enforced the federal Anti-Kickback Statute to reach large settlements with healthcare companies based on sham consulting and other financial arrangements with physicians. A person or entity does not need to have actual knowledge of the statute or specific intent to violate it in order to have committed a violation. In addition, the government may assert that a claim including items or services resulting from a violation of the federal Anti-Kickback Statute constitutes a false or fraudulent claim for purposes of the civil False Claims Act;

- The federal civil and criminal false claims laws, including the civil False Claims Act, and civil monetary penalty laws, prohibit, among other things, knowingly presenting or causing the presentation of a false, fictitious or fraudulent claim for payment to the United States government, knowingly making, using, or causing to be made or used a false record or statement material to a false or fraudulent claim to the United States government, or from knowingly making a false statement to avoid, decrease or conceal an obligation to pay money to the United States government. Actions under these laws may be brought by the Attorney General or as a qui tam action by a private individual in the name of the government. The federal government uses these laws, and the accompanying threat of significant liability, in its investigation and prosecution of pharmaceutical and biotechnology companies throughout the United States, for example, in connection with the promotion of products for unapproved uses and other allegedly unlawful sales and marketing practices;
- HIPAA created new federal, civil and criminal statutes that prohibit among other actions, knowingly and willfully executing, or attempting to execute, a scheme to defraud any healthcare benefit program, including private third-party payors, knowingly and willfully embezzling or stealing from a healthcare benefit program, willfully obstructing a criminal investigation of a healthcare offense, and knowingly and willfully 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 healthcare benefits, items or services. Similar to the federal Anti-Kickback Statute, a person or entity does not need to have actual knowledge of the statute or specific intent to violate it in order to have committed a violation;
- The PPACA, among other things, imposes reporting requirements on manufacturers of FDA-approved drugs, devices, biologics and medical supplies covered by Medicare, Medicaid, or the Children's Health Insurance Program to report, on an annual basis, to CMS information related to payments and other transfers of value to physicians (defined to include doctors, dentists, optometrists, podiatrists, chiropractors and, beginning in 2022 for payments and other transfers of value provided in the previous year, certain advanced non-physician health care practitioners), teaching hospitals, as well as ownership and investment interests held by physicians and their immediate family members;
- HIPAA, as amended by HITECH and their respective implementing regulations impose specified requirements relating to the privacy, security and transmission of individually identifiable health information. Among other things, HITECH makes HIPAA's privacy and security standards directly applicable to "business associates," defined as independent contractors or agents of covered entities, which include certain healthcare providers, health plans, and healthcare clearinghouses, that create, receive, maintain or transmit protected health information in connection with providing a service for or on behalf of a covered entity. HITECH also increased the civil and criminal penalties that may be imposed against covered entities, business associates and possibly other persons, and gave state attorneys general new authority to file civil actions for damages or injunctions in federal courts to enforce HIPAA and seek attorneys' fees and costs associated with pursuing federal civil actions;
- Analogous state and foreign laws and regulations, such as state anti-kickback and false claims laws, that may apply to sales or marketing arrangements and claims involving healthcare items or services reimbursed by non-governmental third-party payors, including private insurers;
- State laws that require pharmaceutical companies to comply with the pharmaceutical industry's voluntary compliance guidelines and the relevant compliance guidance promulgated by the federal government and may require drug manufacturers to report information related to payments and other transfers of value to physicians and other healthcare providers or marketing expenditures to the extent that those laws impose requirements that are more stringent than the Physician Payments Sunshine Act, as well as state and local laws that require the registration of pharmaceutical sales representatives; and
- State laws and foreign laws and regulations (particularly European Union laws regarding personal data relating to individuals based in Europe) that govern the privacy and security of health information in certain circumstances, many of which differ from each other in significant ways, thus complicating compliance efforts.

In November 2020, the United States Department of Health and Human Services (“DHHS”) finalized significant changes to the regulations implementing the Anti-Kickback Statute, with the goal of offering the healthcare industry more flexibility and reducing the regulatory burden associated with those fraud and abuse laws, particularly with respect to value-based arrangements among industry participants.

Ensuring that our current and future business arrangements with third parties comply with applicable healthcare laws and regulations involves substantial costs. It is possible that governmental authorities may conclude that our business practices may not comply with current or future statutes, regulations, agency guidance or case law involving applicable fraud and abuse or other healthcare laws and regulations. If our operations are found to be in violation of any of these laws or any other governmental regulations that may apply to us, we may be subject to significant civil, criminal and administrative penalties, including monetary damages, fines, disgorgement, imprisonment, loss of eligibility to obtain approvals from the FDA, exclusion from participation in government contracting, healthcare reimbursement or other government programs, including Medicare and Medicaid, reputational harm, diminished profits and future earnings, or additional reporting requirements if we become subject to a corporate integrity agreement or other agreement to resolve allegations of non-compliance with any of these laws, and the curtailment or restructuring of our operations. If any of the physicians or other healthcare providers or entities with whom we expect to do business is found to be not in compliance with applicable laws, they may be subject to criminal, civil or administrative sanctions, including exclusions from government funded healthcare programs.

Healthcare Reform and Potential Changes to Healthcare Laws

The United States and some foreign jurisdictions are considering or have enacted a number of legislative and regulatory proposals to change the healthcare system in ways that could affect our ability to sell our future products 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 or 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. The FDA’s and other regulatory authorities’ policies may change and additional government regulations may be enacted that could prevent, limit or delay regulatory approval of our product candidates. If we are slow or unable to adapt to changes in existing requirements or the adoption of new requirements or policies, or if we are not able to maintain regulatory compliance, we may lose any marketing approval that we otherwise may have obtained and we may not achieve or sustain profitability, which would adversely affect our business, prospects, financial condition and results of operations. Moreover, 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/or expanding access.

By way of example, PPACA was enacted in March 2010 and has had a significant impact on the health care industry in the United States. PPACA expanded coverage for the uninsured while at the same time containing overall healthcare costs. With regard to biopharmaceutical products, PPACA, among other things, addressed a new methodology by which rebates owed by manufacturers under the Medicaid Drug Rebate Program are calculated for drugs that are inhaled, infused, instilled, implanted or injected, increased the minimum Medicaid rebates owed by manufacturers under the Medicaid Drug Rebate Program and extended the rebate program to individuals enrolled in Medicaid managed care organizations, established annual fees on manufacturers of certain branded prescription drugs, and created a new Medicare Part D coverage gap discount program.

As another example, the 2021 Consolidated Appropriations Act signed into law on December 27, 2020, incorporated extensive healthcare provisions and amendments to existing laws, including a requirement that all manufacturers of drugs and biological products covered under Medicare Part B report the product’s average sales price to the DHHS beginning on January 1, 2022, subject to enforcement via civil money penalties.

In addition, other legislative changes have been proposed and adopted in the United States since the PPACA that affect health care expenditures. These changes include aggregate reductions to Medicare payments to providers of up to 2% per fiscal year pursuant to the Budget Control Act of 2011, which began in 2013 and will remain in effect through 2030 unless additional Congressional action is taken. The Coronavirus Aid, Relief, and Economic Security Act, (the “CARES Act”), which was signed into law on March 27, 2020 and was designed to provide financial support and resources to individuals and businesses affected by the COVID-19 pandemic, suspended the 2% Medicare sequester from May 1, 2020 through December 31, 2020, and extended the sequester by one year, through 2030, in order to offset the added expense of the 2020 cancellation. The 2021 Consolidated Appropriations Act was subsequently signed into law on December 27, 2020 and extended the CARES Act suspension period to March 31, 2021. The most recently enacted pandemic-relief legislation, the American Rescue Plan Act of 2021, which was signed into law on March 11, 2021, also includes significant healthcare system reforms and programs intended to strengthen the insurance marketplace established under the PPACA, among others. In addition, other legislative changes that affect the pharmaceutical industry have been proposed and adopted in the United States since the ACA was enacted. For example, the Inflation Reduction Act of 2022 included, among other things, a provision that authorizes CMS to negotiate a “maximum fair price” for a limited number of high-cost, single-source drugs every year, and another provision that requires drug companies to pay rebates to Medicare if prices rise faster than inflation.

Moreover, there has been heightened governmental scrutiny over the manner in which manufacturers set prices for their marketed products, which has resulted in several Congressional inquiries and proposed and enacted federal and state legislation designed to, among other things, bring more transparency to product pricing, review the relationship between pricing and manufacturer patient programs, and reform government program reimbursement methodologies for drug products. DHHS has solicited feedback on some of various measures intended to lower drug prices and reduce the out of pocket costs of drugs and implemented others under its existing authority. For example, in May 2019, DHHS issued a final rule to allow Medicare Advantage plans the option to use step therapy for Part B drugs beginning January 1, 2020. This final rule codified a DHHS policy change that was effective January 1, 2019. Congress and the executive branch have each indicated that it will continue to seek new legislative and/or administrative measures to control drug costs, making this area subject to ongoing uncertainty.

Individual states in the United States have also increasingly passed legislation and implemented regulations designed to control pharmaceutical product pricing, including price or patient reimbursement constraints, discounts, restrictions on certain product access and marketing cost disclosure and transparency measures, and, in some cases, designed to encourage importation from other countries and bulk purchasing. In December 2020, the United States Supreme Court held unanimously that federal law does not preempt the states' ability to regulate pharmaceutical benefit managers ("PBMs") and other members of the health care and pharmaceutical supply chain, an important decision that may lead to further and more aggressive efforts by states in this area.

The FDA's and other regulatory authorities' policies also may change and additional government regulations may be enacted that could prevent, limit or delay regulatory approval of our drug candidates. For example, in December 2016, the 21st Century Cures Act (the "Cures Act") was signed into law. The Cures Act, among other things, is intended to modernize the regulation of drugs and devices and to spur innovation, but its ultimate implementation is uncertain. In addition, in August 2017, the FDA Reauthorization Act was signed into law, which reauthorized the FDA's user fee programs and included additional drug and device provisions that build on the Cures Act. If we are slow or unable to adapt to changes in existing requirements or the adoption of new requirements or policies, we may not achieve or sustain profitability, which would adversely affect our business, prospects, financial condition and results of operations.

We expect that the PPACA, as well as other healthcare reform measures that may be adopted in the future, may result in more rigorous coverage criteria and lower reimbursement, and in additional downward pressure on the price that we receive for any approved product. Any reduction in reimbursement from Medicare or other government-funded programs may result in a similar reduction in payments from private payors. The implementation of cost containment measures or other healthcare reforms may prevent us from being able to generate revenue, attain profitability or commercialize our drugs, once regulatory approval is obtained. We cannot predict the likelihood, nature or extent of government regulation that may arise from future legislation or administrative or executive action, either in the United States or abroad. We expect that additional state and federal healthcare reform measures will be adopted in the future, any of which could limit the amounts that federal and state governments will pay for healthcare products and services, including any future pharmaceutical products for which we secure marketing approval.

Data Privacy and the Protection of Personal Information

We are regulated by laws and regulations governing data privacy, security, and the protection of personal information, including health information, that are applicable to our business and associated data processing activities. The legislative and regulatory landscape for privacy and data protection continues to evolve, and there has been an increasing focus on privacy and data protection issues globally which will continue to affect our business. In the United States, we may be subject to state data breach notification laws, state laws protecting the privacy and security of health and personal information and federal and state consumer protections laws which regulate the collection, use, disclosure and transmission of personal information. These laws may overlap and conflict with each other, and each of these laws is subject to varying interpretations by courts and government agencies, creating complex compliance issues for us. If we fail to comply with applicable data protection laws and regulations we could be subject to penalties or sanctions, including criminal penalties. Our current and future customers and research partners must comply with laws governing the privacy and security of health information, including HIPAA and state health information privacy laws. If we knowingly obtain health information that is protected under HIPAA, called "protected health information," without observing the correct protocols which may include execution of a business associate agreement, implementation of privacy or security measures, and other obligations, our customers or research collaborators may be subject to enforcement actions, and we may have direct liability for the unlawful receipt of protected health information or for aiding and abetting a HIPAA violation.

State laws protecting health and personal information are becoming increasingly stringent. For example, California has implemented the California Confidentiality of Medical Information Act, which imposes restrictive requirements regulating the use and disclosure of health information and other personally identifiable information. Washington has enacted the My Health My Data Act, which will (with certain exceptions) become effective on March 31, 2024, and Nevada's Consumer Health Privacy Law will enter into force on March 31, 2024. The development of general state privacy laws has been even more rapid. In 2020 California implemented the California Consumer Privacy Act of 2018 ("CCPA"). The CCPA reflects several key concepts included in the European Union General Data Protection Regulation ("GDPR"). The CCPA establishes a new privacy framework for covered businesses by creating an expanded definition of personal information, establishing new data privacy rights for consumers in the State of California, imposing special rules on the collection of consumer data from minors, and creating a new and potentially severe statutory damages framework for violations of the CCPA and for businesses that fail to implement reasonable security procedures and practices to prevent data breaches. On January 1, 2023, the California Privacy Rights Act ("CPRA") entered into force and significantly modified the CCPA. This may result in further uncertainty, additional costs and expenses in an effort to comply, as well as additional potential for harm and liability for failure to comply. In addition to California, twelve other states have enacted state data privacy laws, and in five of these states – Colorado, Connecticut, Nevada, Utah and Virginia – these laws have entered into force in 2023. Other states in the U.S. are considering privacy laws similar to CCPA/CPRA and other state privacy laws.

When we do business and/or conduct clinical trials in the UK or the EEA (i.e., the EU plus Liechtenstein, Norway and Iceland), we are subject to the GDPR as well as the GDPR as saved into United Kingdom law by virtue of section 3 of the United Kingdom's European Union (Withdrawal) Act 2018 and the UK's Data Protection Act 2018 ("DPA 2018") (the "UK GDPR"). The GDPR and UK GDPR apply to business colleagues, employees, service providers, trial participants and other individuals like investigators or CRO employees who are residents of the UK or EEA. Violations of the UK GDPR and/or the GDPR can carry hefty fines of up to EUR 20 million / £17.5 million or 4% of the total annual worldwide revenue in the preceding financial year, whichever is higher.

U.S. Foreign Corrupt Practices Act

In general, the Foreign Corrupt Practices Act of 1977, as amended, or the FCPA, prohibits offering to pay, paying, promising to pay, or authorizing the payment of money or anything of value to a foreign official in order to influence any act or decision of the foreign official in his or her official capacity or to secure any other improper advantage in order to obtain or retain business for or with, or in order to direct business to, any person. The prohibitions apply not only to payments made to "any foreign official," but also those made to "any foreign political party or official thereof," to "any candidate for foreign political office" or to any person, while knowing that all or a portion of the payment will be offered, given, or promised to anyone in any of the foregoing categories. "Foreign officials" under the FCPA include officers or employees of a department, agency, or instrumentality of a foreign government. The term "instrumentality" is broad and can include state-owned or state-controlled entities. Importantly, United States authorities deem most healthcare professionals and other employees of foreign hospitals, clinics, research facilities and medical schools in countries with public healthcare and/or public education systems to be "foreign officials" under the FCPA. When we interact with foreign healthcare professionals and researchers in testing and marketing our products abroad, should any of our product candidates receive foreign regulatory approval in the future, we must have policies and procedures in place sufficient to prevent us and agents acting on our behalf from providing any bribe, gift or gratuity, including excessive or lavish meals, travel or entertainment in connection with marketing our products and services or securing required permits and approvals. The FCPA also obligates companies whose securities are listed in the United States to comply with accounting provisions requiring us to maintain books and records that accurately and fairly reflect all transactions of the corporation, including international subsidiaries, and to devise and maintain an adequate system of internal accounting controls for international operations.

Material Agreements

Joint Commercialization Agreement with Indegene, Inc.

On March 7, 2023, we entered into the Joint Commercialization Agreement Indegene.

The Commercialization Agreement governs the general terms under which Indegene will provide commercialization services for CTx-1301, if we receive FDA approval for CTx-1301, upon our request. Pursuant to the Commercialization Agreement, the parties will enter into statements of work that will set forth, among other things, the services to be performed by Indegene, the deliverables for such services, and the fees to be paid by us. Each statement of work will be governed by the terms of the Commercialization Agreement, unless expressly modified in such statement of work. We may elect to receive the following services from Indegene: (a) medical affairs & pharmacovigilance; (b) pricing, reimbursement and market access; (c) commercial operations; and (d) marketing (including field force). The parties will negotiate in good faith any changes to the services provided by Indegene due to changes in circumstances or priorities established by us.

The Commercialization Agreement will expire three years after the launch of CTx-1301. We may terminate the Commercialization Agreement upon six (6) months prior written notice to Indegene, and Indegene may terminate the Commercialization Agreement upon twelve (12) months prior written notice to us. In addition, either party may terminate the Commercialization Agreement upon thirty (30) days prior, written notice if: (i) the FDA notifies us that it will not approve our NDA for CTx-1301; or (ii) we suspend or terminate our clinical development program for CTx-1301 in the United States. Either party may terminate the Commercialization Agreement upon thirty (30) days prior, written notice for material, uncured breaches or immediately in the event of the other party's bankruptcy.

During the term of the Commercialization Agreement, except for medical information services, the development and publication of peer-reviewed articles and pharmacovigilance services, Indegene will not provide strategic health care provider and/or patient marketing support (or any other types of services that are in the same category) to any party except us with respect to any ADHD product. Until the date of any notice of termination of the Commercialization Agreement or any notice of termination of a given service, we will not engage a party other than Indegene to provide any services with respect to commercialization of CTx-1301 that are in the same category as any of the services being provided to us by Indegene without Indegene's written approval, not to be unreasonably withheld, subject to certain exceptions.

The Commercialization Agreement contains representations, warranties, confidentiality and indemnity obligations customary for agreements of this type.

Master Services Agreement with Societal CDMO, Inc.

Effective October 24, 2022, we entered into a master services agreement with Societal (the "Manufacturing Agreement"). The Manufacturing Agreement governs the general terms under which Societal, or one of its affiliates, will provide manufacturing services as specified by us at Societal's Gainesville, Georgia manufacturing facility. Such services are performed under agreed statements of work. Under the terms of the Manufacturing Agreement, we have agreed to pay fees for Societal's performance of services as provided in each applicable statement of work.

The Manufacturing Agreement terminates in October 2027 or such later date as required to complete a statement of work (the “Initial Term”) and will renew automatically thereafter for successive twelve (12) month periods (a “Renewal Term”) unless terminated by either party at least twelve (12) months (if prior to the successful completion of process validation batches for the first product) or twenty-four (24) months (after successful completion of validation batches for the first product) prior to the end of the Initial Term or any Renewal Term. The term of each statement of work terminates upon completion of the services under such statement of work, unless terminated earlier. We may terminate the Manufacturing Agreement or any statement of work upon ninety (90) days prior, written notice to Societal. Societal may terminate a statement of work due to certain delays or inactivity or if the services provided under such statement of work cannot be performed in accordance with applicable regulatory requirements; provided, that Societal shall use commercially reasonable efforts to engage in meaningful discussions with us prior to any such termination. Societal may terminate the Agreement upon six (6) months prior, written notice if all statements of work have been terminated. The Manufacturing Agreement or a statement of work may be terminated by either party for material, uncured breaches or in the event of the other party’s bankruptcy.

The Manufacturing Agreement includes customary terms relating to, among others, indemnification, intellectual property protection, confidentiality, remedies and warranties.

Patent and Know-How License Agreement with BDD Pharma Limited

We entered into a patent and know-how license agreement with BDD Pharma Limited (“BDD Pharma”) in August 2018, which we refer to as the BDD Pharma License Agreement. Pursuant to the BDD Pharma License Agreement, we have an exclusive license under technology, patents and know-how owned or controlled by BDD Pharma and relating to a barrier layer for controlled drug release in order to develop, manufacture, market, use, import, sell or otherwise supply and commercialize products that (i) deliver three distinct doses of dextroamphetamine, dexamethylphenidate or any methylphenidate based or any amphetamine based drug, (ii) have an extended release in vitro over a period of more than eight hours or (iii) are otherwise covered by the patents or are made, developed or used in accordance with the know-how. We also have the right to apply for marketing approvals and carry out clinical trials for the purpose of obtaining marketing approvals of such products. The rights granted to us are worldwide and exclusive in the field of the treatment of any disease or disorder in humans amenable to treatment with a methylphenidate-based or amphetamine-based drug or mixture or combination thereof. We have the right to sublicense the rights granted to us, subject to certain conditions.

BDD Pharma was entitled to a payment of \$198,625 in connection with execution of the BDD Pharma License Agreement. We may be required to pay BDD Pharma aggregate milestone payments of \$750,000 (\$250,00 of which has already been paid) for each product in connection with clinical trial and regulatory milestones, with different dose strengths of a product being considered the same product for purposes of milestone payments. We may be required to pay BDD Pharma low to mid-single digit royalties on aggregate net sales of products. We may also be required to pay BDD Pharma low to mid-single digit royalties on aggregate net receipts of products based on sales made by our sublicensees and non-royalty sublicensing consideration that we receive.

Unless terminated earlier, the term of the BDD Pharma License Agreement continues until the later of the expiration of the last-to-expire of all the patents licensed to us or the last-to-expire of all of our payment obligations. Our royalty payment obligations expire on a product-by-product and country-by-country basis upon the later of 10 years from the first commercial sale of a product in a country or expiration of the last-to-expire patent covering the manufacture, use or sale of the product in a country. Currently, the last-to expire patent licensed from BDD Pharma expires in November of 2035. Upon expiration of our royalty payment obligations, the licenses granted to us become fully-paid, irrevocable and perpetual.

We, or BDD Pharma, may terminate the BDD Pharma License Agreement if there is an uncured material breach by the other party or in connection with the other party’s insolvency. BDD Pharma may terminate the BDD Pharma License Agreement immediately upon written notice if we, any sublicensee or related party or affiliate directly challenges, or assists a third party in challenging, the validity or enforcement of the patents owned by BDD Biopharma or the secret nature of the know-how.

Human Capital Resources

To achieve our goals, it is crucial that we attract and retain talented employees. To facilitate this, we strive to maintain a safe and rewarding workplace, with opportunities for our employees to grow and develop in their careers, supported by competitive pay, comprehensive benefits and health and wellness programs, and programs that build connections among our employees. Our compensation program includes the granting of stock options to attract, retain, and incentivize employees.

As of December 31, 2023, we employed thirteen (13) employees. Of these, six (6) are engaged in research and development and manufacturing activities, and seven (7) in general and administrative functions. All of our employees are located in the United States. We utilize outside consultants and independent contractors to supplement our full-time workforce. None of our employees are represented by a labor organization or are under a collective-bargaining arrangement. We consider our employee relations to be good.

Corporate Information

Cingulate Inc. is a Delaware corporation that was formed in May 2021 to serve as a holding company. CTx is a Delaware limited liability company that was formed in November 2012. In connection with the consummation of our IPO, on September 29, 2021, Cingulate Inc. acquired CTx through the merger of a wholly-owned acquisition subsidiary of Cingulate Inc. with and into CTx (the “Reorganization Merger”). As a result of the Reorganization Merger, CTx became a wholly-owned subsidiary of Cingulate Inc. Unless otherwise stated or the context otherwise requires, all information in this prospectus reflects the consummation of the Reorganization Merger and the IPO.

Our primary executive offices are located at 1901 West 47th Place, Kansas City, Kansas 66205 and our telephone number is (913) 942-2300. Our website address is www.cingulate.com. The information contained in, or accessible through, our website does not constitute a part of this prospectus. We have included our website address in this annual report solely as an inactive textual reference.

Properties

Our corporate headquarters is located in Kansas City, Kansas, where we lease approximately 14,205 square feet of office space. Our lease expires in May 2025, with an option to extend. Our manufacturing activities take place at Societal, our CDMO in Gainesville, Georgia. We believe our current offices, laboratories, and manufacturing spaces are sufficient to meet our needs. We may seek to negotiate new leases or evaluate additional or alternate space to accommodate operations. We believe that appropriate alternative space is readily available on commercially reasonable terms.

Legal Proceedings

We are not a party to any material pending legal proceedings. From time to time, we may be subject to legal proceedings and claims arising in the ordinary course of business.

MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

The following discussion and analysis of our financial condition and results of operations should be read in conjunction with the consolidated financial statements and related notes included elsewhere in this prospectus. Some of the information contained in this discussion and analysis or set forth elsewhere in this prospectus, including information with respect to our plans and strategy for our business, includes forward-looking statements that involve risks and uncertainties. You should review the "Risk Factors" section of this prospectus for a discussion of important factors that could cause actual results to differ materially from the results described in or implied by the forward-looking statements contained in the following discussion and analysis.

Overview

We are a biopharmaceutical company using our proprietary Precision Timed Release™ ("PTR™") drug delivery platform technology to build and advance a pipeline of next-generation pharmaceutical products designed to improve the lives of patients suffering from frequently diagnosed conditions characterized by burdensome daily dosing regimens and suboptimal treatment outcomes. We are initially focusing our efforts on the treatment of ADHD. Our PTR platform incorporates a proprietary Erosion Barrier Layer ("EBL") designed to allow for the release of drug substance at specific, pre-defined time intervals, unlocking the potential for once-daily, multi-dose tablets. We believe there remains a significant, unmet need within the current treatment paradigm for true once-daily ADHD stimulant medications with lasting duration and a superior side effect profile to better serve the needs of patients throughout their entire active-day.

Since inception in 2012, our operations have focused on developing our product candidates, organizing and staffing our company, business planning, raising capital, establishing our intellectual property portfolio and conducting clinical trials. We do not have any product candidates approved for sale and have not generated any revenue. We have funded our operations through public and private capital raised. Cumulative capital raised from these sources, including debt financing, was approximately \$79.0 million as of September 30, 2023.

We have incurred significant losses since our inception. Our ability to generate product revenue sufficient to achieve profitability will depend on the successful development and commercialization of one or more of our product candidates. Our net losses were \$6.0 million and \$4.0 million for the three-month periods ended September 30, 2023 and 2022, respectively, and \$16.6 million and \$13.1 million for the nine-month periods ended September 30, 2023 and 2022, respectively. See "Results of Operations" below for an explanation of the fluctuations in our net losses. As of September 30, 2023, we had an accumulated deficit of \$86.0 million.

We expect to continue to incur significant expenses and increasing operating losses in the near term. We expect our expenses will increase substantially in connection with our ongoing activities, as we:

- seek regulatory approval for CTx-1301;
- continue research and development activities for our existing and new product candidates, primarily for CTx-1301;
- manufacture supplies for our preclinical studies and clinical trials, primarily for CTx-1301;
- outsource commercial infrastructure to support sales and marketing for CTx-1301; and
- operate as a public company.

As of September 30, 2023, we had cash and cash equivalents of \$2.0 million. Assuming that we receive a minimum of \$10.0 million of proceeds from this offering, we believe that the net proceeds from this offering, together with our cash on hand, will satisfy our capital needs until the fourth quarter of 2024 under our current business plan and assuming that we receive \$5.0 million of proceeds from this offering, we believe that the net proceeds from this offering, together with our cash on hand, will satisfy our capital needs until the second quarter of 2024 under our current business plan. In addition, in order to achieve the filing of our NDA for CTx-1301 in the first half of 2025 for potential FDA approval, we believe that we will need approximately \$14-17 million of capital. We will also need additional capital to advance our other programs and commercialization efforts. See "Liquidity and Capital Resources" below.

Our ability to generate product revenue will depend on the successful development, regulatory approval and eventual commercialization of one or more of our product candidates. Until such time as we can generate significant revenue from product sales, if ever, we expect to finance our operations through the sale of equity, debt financings, or other capital sources, including potential collaborations with other companies or other strategic transactions. Adequate funding may not be available to us on acceptable terms, or at all. If we fail to raise capital or enter into such agreements as and when needed, we may have to significantly delay, scale back or discontinue the development and commercialization of our product candidates.

Clinical, Manufacturing and Business Update

CTx-1301: A Phase 3 adult dose-optimization study to assess the efficacy and safety, along with onset and duration, of CTx-1301 in adults with ADHD was initiated in December 2022 and completed in June 2023. Results were presented at the 2023 Psych Congress and will be presented at the 2024 American Professional Society of ADHD and Related Disorders (“APSARD”) in January 2024. This Phase 3 CTx-1301 study (NCT05631626) assessed efficacy and safety along with onset and duration of CTx-1301 in 21 adults (age range: 18-55 years) with ADHD in an adult laboratory classroom setting. It did not achieve statistical significance on the primary efficacy endpoint but CTx-1301 demonstrated a trend toward significance in improving Permanent Product Measure of Performance (“PERMP”) scores compared to placebo. Clinical Global Impression Scale (“CGI-S”) scores with CTx-1301 compared to placebo also showed significant improvements that were indeed statistically significant for this secondary endpoint. The treatment effect size of CTx-1301 in this trial was notable – starting at 30 minutes and demonstrated the ability of CTx-1301 to improve upon ADHD symptoms in patients over an entire active day.

In addition, we initiated two CTx-1301 Phase 3 clinical studies in pediatric and adolescent patients- a fixed dose study (NCT05286762) and a dose-optimized onset and duration study in a laboratory classroom setting (NCT05924594) – in the third quarter of 2023. Based on guidance received from the FDA regarding our clinical program for CTx-1301, we stopped enrollment in these two studies. All enrolled patients in these studies can complete the study and data will be reported accordingly. Additionally, based on this guidance, we expect to submit the NDA for CTx-1301 in the first half of 2025 under the Section 505(b)(2) pathway with Focalin® XR as the reference listed drug, using its efficacy and safety data on file with the FDA as a basis for approval, together with bioavailability/bioequivalence data and efficacy/safety data from our CTx-1301 clinical program. If we receive FDA approval for CTx-1301, we may conduct Phase 4 trials.

We plan to initiate the clinical plan for CTx-1302 (dextroamphetamine), our second investigational asset for the treatment of ADHD, as soon as 2025, pending additional capital resources.

Societal, a CDMO dedicated to solving complex formulation and manufacturing challenges primarily in small molecule therapeutic development, will manufacture all clinical, registration, and commercial batches of our lead ADHD candidate, CTx-1301. In April 2023, we successfully completed the transfer of our proprietary PTR™ manufacturing processes for our lead candidate, CTx-1301 (dexamethylphenidate), to Societal, which has produced a scalable supply of CTx-1301 for our Phase 3 trials in the manufacturing suite within Societal’s Gainesville, GA facility that is outfitted with equipment supplied by us.

In March 2023, we announced a joint commercialization agreement with Indegene, a comprehensive life sciences commercialization company, to provide commercial support for our lead candidate CTx-1301 (dexamethylphenidate). The agreement spans cross-functional services through an omnichannel marketing approach uniquely designed to successfully manage pre-commercial support during our Phase 3 clinical trials and to effectively commercialize CTx-1301 nationwide following potential FDA approval.

CTx-2103: We have embarked on a program to develop CTx-2103 (buspirone) for the treatment of anxiety, which is one of the most common mental health concern in the United States. We completed a formulation study in which the pharmacokinetics were evaluated for this trimodal tablet providing three precisely timed doses of buspirone versus one immediate release dose. In addition, scintigraphic imaging visualized transit of the tablets through the gastrointestinal tract to confirm both the site and onset of release, which will then be correlated with pharmacokinetic data to establish the full release profile of the CTx-2103 formulation. Based on the pharmacokinetic profile seen in the data, CTx-2103 achieved a triple release of buspirone. These results provided the critical information required to allow us to request a Pre-IND meeting with the FDA to discuss the design of our clinical and regulatory program for CTx-2103 which occurred in the fourth quarter of 2023. We received input from the FDA regarding the regulatory pathway for CTx-2103, and the design of clinical studies for filing of an IND. Based on this FDA feedback, we believe that we can seek and win approval of CTx-2103 under the 505(b)(2) pathway, which typically requires less time and resources than the 505(b)(1) full NDA pathway.

CTx-1302: We plan to initiate the clinical plan for CTx-1302 (dextroamphetamine), our second investigational asset for the treatment of ADHD, as soon as 2025, pending additional capital resources.

PTRTM Platform: We continue to evaluate opportunities to out-license our PTR platform and to license our product candidates outside of the United States. In addition, we are evaluating opportunities to expand our relationship with BDD Pharma Limited.

Securities Issuances

ATM Agreement

We entered into an At The Market Offering Agreement (“ATM Agreement”) with H.C. Wainwright & Co., LLC (“HCW”), as sales agent, in January 2023 as amended in May 2023, pursuant to which we may offer and sell, from time to time through HCW, shares of our common stock for aggregate proceeds of up to \$4.97 million (upon the terms and subject to the conditions and limitations set forth in the ATM Agreement). During the three months ended September 30, 2023, we sold 76,943 shares of common stock pursuant to the ATM Agreement, for net proceeds of \$1,595,429 after deducting \$49,502 of compensation to HCW and other administration fees. During the nine months ended September 30, 2023, we sold 82,410 shares of common stock pursuant to the ATM Agreement, for net proceeds of \$1,696,407 after deducting \$59,898 of compensation to HCW and other administration fees. Subsequent to September 30, 2023, we sold 283,300 shares of common stock pursuant to the ATM Agreement, for net proceeds of \$3,115,303 after deducting \$97,512 of compensation to HCW and other administration fees.

Equity Line of Credit

In April 2023, we entered into a purchase agreement (“Lincoln Park Agreement”) with Lincoln Park Capital Fund LLC (“Lincoln Park”). Pursuant to the Lincoln Park Agreement, Lincoln Park has agreed to purchase from us up to an aggregate of \$12.0 million of common stock (upon the terms and subject to the conditions and limitations set forth in the Lincoln Park Agreement) from time to time and at our sole discretion over the 36-month term of the Lincoln Park Agreement. During the three months ended September 30, 2023, we sold 12,000 shares of common stock pursuant to the Lincoln Park Agreement, for net proceeds of \$196,167. During the nine months ended September 30, 2023, we sold 25,500 shares of common stock pursuant to the Lincoln Park Agreement, for net proceeds of \$450,427. Subsequent to September 30, 2023, we did not sell any shares of common stock pursuant to the Lincoln Park Agreement.

Private Placement

On August 11, 2023, we entered into a Securities Purchase Agreement with WFIA (the “August 2023 Purchase Agreement”) and issued, in a private placement priced at the market under the Nasdaq Stock Market’s rules, 91,158 shares of our common stock at a purchase price per share of \$10.97, resulting in gross proceeds to us of approximately \$1.0 million (the “WFIA Private Placement”).

Debt Conversion

In August 2022, CTx, a wholly-owned subsidiary of Cingulate Inc. issued the Original Note to WFIA with a principal amount of \$5.0 million (the “Original Principal Amount”), and in May 2023, CTx issued an Amended and Restated Promissory Note (the “WFIA Note”) increasing the principal amount under the Original Note by \$3.0 million to \$8.0 million (the “2023 WFIA Debt Financing”).

On September 8, 2023, Cingulate Inc. and CTx entered into a note conversion agreement with WFIA, pursuant to which WFIA agreed to convert the Original Principal Amount under the WFIA Note plus all accrued interest thereon, or \$5,812,500, into pre-funded warrants (the “September WFIA Pre-Funded Warrants”) to purchase 341,912 shares of our common stock at a conversion price per September WFIA Pre-Funded Warrant of \$17.00. The closing price of our common stock on Nasdaq on September 8, 2023 was \$11.55 per share. The September WFIA Pre-Funded Warrants have no expiration date and are exercisable immediately at an exercise price of \$0.002 per share, to the extent that after giving effect to such exercise, WFIA and its affiliates would beneficially own, for purposes of Section 13(d) of the Exchange Act, no more than 19.99% of the outstanding shares of our common stock.

On January 25, 2024, Cingulate Inc. and CTx entered into a Note Conversion Agreement (the “January 2024 Note Conversion Agreement”) with WFIA, pursuant to which WFIA agreed to convert the remaining \$3.0 million of principal under the WFIA Note plus all accrued interest thereon, or \$3,287,500, into pre-funded warrants (the “January WFIA Pre-Funded Warrants”) to purchase 687,043 shares of our common stock, at a conversion price per January WFIA Pre-Funded Warrant of \$4.785. The closing price of the Common Stock on Nasdaq on January 24, 2024 was \$4.35 per share. The January WFIA Pre-Funded Warrants have no expiration date and are exercisable immediately at an exercise price of \$0.0001 per share, to the extent that after giving effect to such exercise, WFIA and its affiliates would beneficially own, for purposes of Section 13(d) of the Exchange Act, no more than 19.99% of the outstanding shares of our common stock.

The WFIA Note was unsecured with interest accruing at 15% per annum. Outstanding principal and all accrued and unpaid interest was due and payable on August 8, 2025 unless accelerated due to an event of default. WFIA had the right during the first five business days of each calendar quarter to demand payment of all outstanding principal and interest 120 days following notice to us. We were permitted prepay the WFIA Note, in whole or in part, without premium or penalty; provided, that no amount repaid was permitted to be reborrowed. As of September 30, 2023, there was \$3.0 million of principal and accrued interest on the WFIA Note was \$0.2 million. After the conversion of the remaining principal amount plus all accrued interest thereon and the issuance of the January WFIA Pre-Funded Warrants, the WFIA Note was paid in full and the Company has no further obligations under the WFIA Note. See “Liquidity and Capital Resources” below.

Public Offering

On September 11, 2023, we entered into a Securities Purchase Agreement with an institutional investor, pursuant to which we issued 86,000 shares of our common stock, pre-funded warrants to purchase up to an aggregate of 260,260 shares of our common stock, Series A warrants to purchase up to 346,260 shares of our common stock and Series B warrants to purchase up to 173,130 shares of our common stock (the “September 2023 Offering”). The September 2023 Offering closed on September 13, 2023. The combined purchase price per share of common stock and accompanying Series A and Series B warrants was \$11.55. The combined purchase price per pre-funded warrant and accompanying Series A and Series B warrants was \$11.55, which represents the public offering price per share of common stock and accompanying warrants less the \$0.002 per share exercise price for each pre-funded warrant. The pre-funded warrants are exercisable at any time after the date of issuance and have no expiration date. The holder of pre-funded warrants may not exercise the warrants if the holder, together with its affiliates, would beneficially own more than 4.99% (or, at the election of the holder, 9.99%) of the number of shares of common stock outstanding immediately after giving effect to such exercise. The Series A warrants have an exercise price of \$11.55 per share, are exercisable beginning on November 3, 2023, the effective date of stockholder approval of the issuance of the shares issuable upon exercise of the warrants, and will expire five years after the initial exercise date, and the Series B warrants have an exercise price of \$11.55 per share, are exercisable beginning on November 3, 2023, the effective date of stockholder approval of the issuance of the shares issuable upon exercise of the warrants and will expire two years after the initial exercise date. We received gross proceeds of approximately \$4.0 million, before deducting the placement agent’s fees and other offering expenses, pursuant to the September 2023 Offering.

Components of Operating Results

Revenue

Since inception, we have not generated any revenue and do not expect to generate any revenue from the sale of products in the near future. If our development efforts for our product candidates are successful and result in regulatory approval, or if we enter into collaboration or license agreements with third parties, we may generate revenue in the future from a combination of product sales or payments from collaboration or license agreements.

Operating Expenses

Research and Development Expenses

Research and development expenses consist of costs incurred in the discovery and development of our product candidates, and primarily include:

- expenses incurred under third party agreements with CROs, and investigative sites, that conducted or will conduct our clinical trials and a portion of our pre-clinical activities;

- costs of raw materials, as well as manufacturing cost of our materials used in clinical trials and other development testing;
- expenses, including salaries and benefits of employees engaged in research and development activities;
- costs of manufacturing equipment, depreciation and other allocated expenses; and
- fees paid for contracted regulatory services as well as fees paid to regulatory authorities including the FDA for review and approval of our product candidates.

We expense all research and development costs as incurred, other than manufacturing equipment used in research and development which is capitalized and amortized over its estimated useful life. Costs for external development activities are recognized based on an evaluation of the progress to completion of specific tasks using information provided to us by our vendors. Payments for these activities are based on the terms of the individual agreements, which may differ from the pattern of costs incurred, and are reflected in our consolidated financial statements as prepaid or accrued costs.

Research and development activities are central to our business model. We expect that our research and development expenses will continue to increase for the foreseeable future as we continue clinical development for our product candidates. As products enter later stages of clinical development, they will generally have higher development costs than those in earlier stages of clinical development, primarily due to the increased size and duration of later-stage clinical trials. Historically, our research and development costs have primarily related to the development of CTx-1301. As we advance CTx-1301, CTx-1302, and CTx-2103, as well as identify any other potential product candidates, we will continue to allocate our direct external research and development costs to the products. We expect to fund our research and development expenses from our current cash and cash equivalents and any future equity or debt financings, or other capital sources.

General and Administrative Expenses

General and administrative expenses consist primarily of salaries and related costs for our employees in administrative, executive and finance functions. General and administrative expenses also include professional fees for legal, accounting, audit, tax and consulting services, insurance, office, and travel expenses.

We expect that our general and administrative expenses will increase in the future as we increase our general and administrative headcount to support our growing operations including the potential commercialization of our product candidates. We have experienced increased expenses associated with being a public company, including costs of accounting, audit, legal, regulatory and tax compliance services; director and officer insurance; and investor and public relations costs.

Interest and other income (expense), net

Interest and other income (expense), net consists of interest expense on our related party notes payable and interest earned on our cash and cash equivalents, including money market funds. The primary objective of our investment policy is liquidity and capital preservation.

Critical Accounting Policies and Significant Judgments and Estimates

Our consolidated financial statements are prepared in accordance with the United States generally accepted accounting principles (“U.S. GAAP”). The preparation of the consolidated financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, the disclosure of contingent assets and liabilities as of the date of the consolidated financial statements and the reported amounts of expenses during a reporting period. Actual results could differ from estimates.

While our significant accounting policies are described in more detail in Note 2 to our consolidated financial statements, we believe the following accounting policies are those most critical to the judgements and estimates used in the preparation of our consolidated financial statements.

Research and Development Costs

Research and development costs are expensed as incurred and include all direct and indirect costs associated with the development of our product candidates. These expenses include payments to third parties for research, development and manufacturing services, personnel costs and depreciation on manufacturing equipment. At the end of the reporting period, we compare payments made to third party service providers to the estimated progress toward completion of the research or development objectives. Such estimates are subject to change as additional information becomes available. Depending on the timing of payments to service providers and the progress that we estimate have been made as a result of the service provided, we may record net prepaid or accrued expense relating to these costs.

Stock-Based Compensation

Under the 2021 Plan, we granted non-qualified stock options to certain employees and directors in 2022 and 2021. The options were granted with strike prices ranging from \$20.00 to \$31.40 per share in 2022 and \$120.00 per share in 2021, which was the price that the common shares were issued to the public in connection with our IPO. The term of these options is ten years with vesting periods ranging from immediate to four years.

We recorded stock-based compensation expense of \$800,796 and \$43,835 during the years ended December 31, 2022 and 2021, respectively, based on the grant-date fair value of the options granted. The fair value of each option grant was estimated as of the date of grant using the Black-Scholes option-pricing model. The fair value is amortized as compensation cost on a straight-line basis over the requisite service period of the awards, which is generally the vesting period.

See footnote 11 to our consolidated financial statements for the assumptions that were used to estimate the fair value of stock options granted using the Black-Scholes option pricing model.

Results of Operations

Comparison of the three months ended September 30, 2023 and September 30, 2022:

The following table summarizes our results of operations for the three months ended September 30, 2023 and September 30, 2022:

(in thousands)	Three Months ended September 30,		Increase (Decrease)	% Increase (Decrease)
	2023	2022		
Operating Expenses:				
Research and development	\$ 3,924	\$ 2,123	\$ 1,801	84.8%
General and administrative	1,826	1,845	(19)	-1.0%
Loss from operations	(5,750)	(3,968)	1,782	(44.9)%
Interest and other income (expense), net	(229)	(59)	(170)	NM
Net Loss	<u>\$ (5,979)</u>	<u>\$ (4,027)</u>	<u>\$ 1,612</u>	<u>(40.0)%</u>

Research and development expenses

The following table summarizes our research and development (“R&D”) expenses for the three months ended September 30, 2023 and September 30, 2022:

(in thousands)	Three Months ended September 30,		Increase (Decrease)	% Increase (Decrease)
	2023	2022		
Clinical operations	\$ 2,346	\$ 581	\$ 1,765	303.8%
Drug manufacturing and formulation	817	673	144	21.4%
Personnel expenses	644	860	(216)	(25.1)%
Regulatory costs	117	9	108	NM
Total research and development expenses	\$ 3,924	\$ 2,123	\$ 1,801	84.8%

R&D expenses were \$3.9 million for the three months ended September 30, 2023, an increase of \$1.8 million, or 84.8%, from the three months ended September 30, 2022. This change was primarily the result of increased clinical activity as compared to the same period in 2022. During the third quarter of 2023, we initiated two Phase 3 studies for CTx-1301, the pediatric dose optimization onset and duration study and the fixed dose pediatric and adolescent safety and efficacy study. In addition, the Phase 3 adult dose-optimization study for CTx-1301 was completed in June 2023.

General and administrative expenses

The following table summarizes our general and administrative (“G&A”) expenses for the three months ended September 30, 2023 and September 30, 2022:

General and Administrative expenses

(in thousands)	Three Months ended September 30,		Increase (Decrease)	% Increase (Decrease)
	2023	2022		
Personnel expenses	\$ 672	\$ 595	\$ 77	12.9%
Legal and professional fees	511	373	138	37.0%
Occupancy	144	109	35	32.1%
Insurance	398	669	(271)	(40.5)%
Other	101	99	2	(2.0)%
Total general and administrative expenses	\$ 1,826	\$ 1,845	\$ (19)	(1.0)%

Total G&A expenses for the three months ended September 30, 2023 were flat compared to the three months ended September 30, 2022, primarily the result of a decrease in insurance costs, which was related to a decline in the annual directors’ and officers’ insurance policy premium that was renewed in December of 2022, offset by an increase in legal fees relating to capital raise activities during the third quarter of 2023.

Interest and other income (expense), net

The following table summarizes interest and other income (expense), net for the three months ended September 30, 2023 and September 30, 2022:

Interest and other income (expense):

(in thousands)	Three Months ended September 30,		Increase (Decrease)	% Increase (Decrease)
	2023	2022		
Interest and other income (expense), net	\$ (229)	\$ (59)	\$ (171)	(289.8)%

Total interest and other income (expense), net in the three months ended September 30, 2023 primarily related to interest on the \$8.0 million of principal under the WFIA Note, of which \$5.0 million of principal was converted to equity in early September 2023.

Total interest and other income (expense), net in the three months ended September 30, 2022 primarily related to interest on the initial \$5.0 million of principal under the WFIA Note, dated August 2022, offset by interest earned during the period.

Comparison of the nine months ended September 30, 2023 and September 30, 2022:

The following table summarizes our results of operations for the nine months ended September 30, 2023 and September 30, 2022:

(in thousands)	Nine Months ended September 30,		Increase (Decrease)	% Increase (Decrease)
	2023	2022		
Operating Expenses:				
Research and development	\$ 10,508	\$ 7,064	\$ 3,444	48.8%
General and administrative	5,454	5,963	(509)	(8.5)%
Loss from operations	(15,962)	(13,027)	2,935	(22.5)%
Interest and other income (expense), net	(638)	(44)	594	NM
Net Loss	<u>\$ (16,600)</u>	<u>\$ (13,071)</u>	<u>\$ 3,529</u>	<u>(27.0)%</u>

Research and development expenses

The following table summarizes our R&D expenses for the nine months ended September 30, 2023 and September 30, 2022:

(in thousands)	Nine Months ended September 30,		Increase (Decrease)	% Increase (Decrease)
	2023	2022		
Clinical operations	\$ 5,071	\$ 2,082	\$ 2,989	143.6%
Drug manufacturing and formulation	3,254	2,827	427	15.1%
Personnel expenses	1,902	2,097	(195)	(9.3)%
Regulatory costs	281	58	223	384.5%
Total research and development expenses	<u>\$ 10,508</u>	<u>\$ 7,064</u>	<u>\$ 3,444</u>	<u>48.8%</u>

R&D expenses were \$10.5 million for the nine months ended September 30, 2023, an increase of \$3.4 million, or 48.8%, from the nine months ended September 30, 2022. The increase was primarily the result of a significant increase in clinical activity as compared to the same period in 2022. We initiated the Phase 3 adult dose-optimization study for CTx-1301 in late 2022 and completed it in June 2023. Additionally, we incurred expenses in connection with the pivotal Phase 3 fixed-dose pediatric and adolescent safety and efficacy study and the Phase 3 pediatric dose-optimization onset and duration study, both for CTx-1301, which were initiated during the third quarter of 2023. Manufacturing activity also increased in 2023, as we completed the manufacturing of clinical supply for the CTx-1301 Phase 3 studies.

General and administrative expenses

The following table summarizes our G&A expenses for the nine months ended September 30, 2023 and September 30, 2022:

(in thousands)	Nine Months ended September 30,		Increase (Decrease)	% Increase (Decrease)
	2023	2022		
Personnel expenses	\$ 2,023	\$ 1,803	\$ 220	12.2%
Legal and professional fees	1,495	1,422	73	5.1%
Occupancy	396	353	43	12.2%
Insurance	1,173	2,013	(840)	(41.7)%
Other	367	372	(5)	(1.3)%
Total general and administrative expenses	<u>\$ 5,454</u>	<u>\$ 5,963</u>	<u>\$ (509)</u>	<u>(8.5)%</u>

Total G&A expenses were \$5.4 million for the nine months ended September 30, 2023, a decrease of \$0.5 million, or 8.5%, from the nine months ended September 30, 2022. This change was primarily the result of a decrease in insurance costs of \$0.8 million related to a decline in the annual directors' and officers' insurance policy premium that was renewed in December of 2022, offset by an increase in personnel expenses resulting from the addition of clinical personnel and annual compensation increases.

Interest and other income (expense), net

The following table summarizes interest and other income (expense), net for the nine months ended September 30, 2023 and September 30, 2022:

(in thousands)	Nine Months ended September 30,		Increase (Decrease)	% Increase (Decrease)
	2023	2022		
Interest and other income (expense), net	\$ (638)	\$ (44)	\$ (594)	NM

Total interest and other income (expense), net in the nine months ended September 30, 2023 primarily related to interest on the initial \$5.0 million of principal under the WFIA Note, dated August 2022, which was subsequently increased to \$8.0 million in May 2023, and decreased by \$5.0 million due to a conversion to equity in early September 2023, offset by interest earned on invested balances.

Total interest and other income (expense), net in the nine months ended September 30, 2022 primarily related to interest on the initial \$5.0 million of principal under the WFIA Note, dated August 2022, offset by interest earned during the period.

Comparison of the years ended December 31, 2022 and December 31, 2021

The following table summarizes our results of operations for the years ended December 31, 2022 and 2021:

(in thousands)	Year ended December 31,		Increase (Decrease)	% Increase (Decrease)
	2022	2021		
Operating Expenses:				
Research and development	\$ 8,995	\$ 8,410	\$ 585	7.0%
General and administrative	8,507	12,269	(3,762)	(30.7)%
Loss from operations	(17,502)	(20,679)	(3,177)	15.4%
Interest and other income (expense), net	(174)	(31)	143	461.3%
Net Loss	<u>\$ (17,676)</u>	<u>\$ (20,710)</u>	<u>\$ (3,034)</u>	<u>14.6%</u>

Research and development expenses

The following table summarizes our research and development expenses for the years ended December 31, 2022 and 2021:

(in thousands)	Year ended December 31,		Increase (Decrease)	% Increase (Decrease)
	2022	2021		
Clinical operations	\$ 3,534	\$ 1,086	\$ 2,448	225.4%
Drug manufacturing and formulation	2,840	1,429	1,411	98.7%
Personnel expenses	2,521	5,874	(3,353)	(57.1)%
Regulatory costs	100	21	79	376.2%
Total research and development expenses	<u>\$ 8,995</u>	<u>\$ 8,410</u>	<u>\$ 585</u>	<u>7.0%</u>

R&D expenses were \$9.0 million for the year ended December 31, 2022, an increase of \$0.6 million or 7.0% from the year ended December 31, 2021. This increase was related to a significant increase in clinical and manufacturing costs for CTx-1301 as we completed a food effect study in the fourth quarter of 2022 and initiated the Phase 3 adult dose-optimization study in late 2022. In addition, our manufacturing costs increased in 2022 relating to the production of clinical supply for Phase 3 trials of CTx-1301. These increases were offset by a decrease in personnel expenses due to the recording of \$4.6 million to R&D expense in 2021 for a one-time noncash compensation charge for the modification of PIUs. The decrease in personnel expenses due to the one-time noncash charge was offset by annual pay increases in 2022 and added personnel in late 2021 in anticipation of increased clinical activity.

General and administrative expenses

The following table summarizes our G&A expenses for the years ended December 31, 2022 and 2021:

(in thousands)	Year ended December 31,		Increase (Decrease)	% Increase (Decrease)
	2022	2021		
Personnel expenses	\$ 2,590	\$ 9,729	\$ (7,139)	(73.4)%
Legal and professional fees	2,233	1,443	790	54.7%
Occupancy	478	484	(6)	(0.01)
Insurance	2,611	325	2,286	703.4%
Other	595	288	307	106.6%
Total general and administrative expenses	<u>\$ 8,507</u>	<u>\$ 12,269</u>	<u>\$ (3,762)</u>	<u>(30.7)%</u>

Total G&A expenses were \$8.5 million for the year ended December 31, 2022, a decrease of \$3.8 million or 30.7% from the year ended December 31, 2021. Personnel expenses decreased \$7.1 million or 73.4%, primarily related to the recording of \$8.1 million to G&A personnel expenses of a one-time noncash compensation charge in 2021 relating to the modification of profits interests units ("PIUs"). This decrease in personnel expenses due to the noncash compensation charge was offset by an increase in salaries expense due to the addition of personnel in late 2021 as we were preparing to operate as a public company. The decrease in personnel expenses was offset by increases in other expenses, including legal fees and audit fees primarily due to increased activity in late 2022 in preparation for future capital raises. In addition, insurance costs increased significantly year-over-year due to the directors and officers insurance premium which is much higher for a publicly traded company.

Interest and other income (expense), net

The following table summarizes interest and other income (expense), net for the years ended December 31, 2022 and 2021:

(in thousands)	Year ended December 31,		Increase (Decrease)	% Increase (Decrease)
	2022	2021		
Interest and other income (expense), net	\$ (174)	\$ (31)	\$ 143	461.3%

Total interest and other income (expense), net in both 2022 and 2021 primarily relates to interest incurred on outstanding notes payable, offset by interest earned on invested balances. Interest expense was significantly higher in 2022 due to \$0.3 million of interest incurred on the \$5.0 million related party note payable to WFIA, dated August 2022.

Cash Flows

	Nine Months ended September 30,	
	2023	2022
Net cash (used in) operating activities	\$ (12,472)	\$ (11,676)
Net cash (used in) investing activities	(37)	(10)
Net cash provided by financing activities	9,139	4,989
Net decrease in cash and cash equivalents	<u>\$ (3,370)</u>	<u>\$ (6,697)</u>

Cash Flows from Operating Activities

Net cash used in operating activities was \$12.5 million for the nine months ended September 30, 2023. Cash used in operating activities was primarily due to the use of funds in our operations to develop our product candidates resulting in a net loss of \$16.6 million, prior to the effects of two noncash items, stock-based compensation expense of \$0.7 million and depreciation expense of \$0.4 million. Changes in operating assets and liabilities included a decrease in miscellaneous receivables of \$0.2 million primarily due to collection of an amount recoverable on an insurance claim which had been recorded as a receivable as of December 31, 2022, a decrease of prepaid expenses and other current assets of \$1.4 million primarily due to the utilization of deposits made to our CMO and contract research organizations, an increase in trade accounts payable and accrued expenses of \$1.5 million due to increased clinical and manufacturing expenses resulting from increased development activity, an increase in interest accrued for to the WFIA Note, and an increase in legal fees payable relating to legal activity incurred primarily in connection with capital raise activities.

Net cash used in operating activities was \$11.7 million for the nine months ended September 30, 2022. Cash used in operating activities was primarily due to the use of funds in our operations to develop our product candidates resulting in a net loss of \$12.8 million, prior to the effects of two noncash items, stock-based compensation expense of \$0.6 million and depreciation of \$0.3 million. Changes in operating assets and liabilities included a decrease in miscellaneous receivables resulting from the receipt in early 2022 of a significant portion of the payroll and research and development tax credits owed to us, and an increase in prepaid expenses and other current assets relating to prepaid amounts on clinical development activity.

Cash Flows from Investing Activities

Net cash used in investing activities for both the nine-month periods ended September 30, 2023 and September 30, 2022 was related to the purchase of equipment to support our research and development.

Cash Flows from Financing Activities

Net cash provided by financing activities for the nine months ended September 30, 2023 was primarily related to gross proceeds of approximately \$4.0 million from the September 2023 Offering, gross proceeds of approximately \$1.0 million from the WFIA Private Placement and proceeds from the issuance of shares of common stock pursuant to the Lincoln Park Agreement and the ATM Agreement. In addition, we received \$3.0 million from the 2023 WFIA Debt Financing.

Net cash provided by financing activities in the nine months ended September 30, 2022 was primarily related to the proceeds on the \$5.0 million WFIA Note received in August 2022.

	Year ended December 31,	
	2022	2021
Net cash (used in) operating activities	\$ (15,882)	\$ (10,432)
Net cash (used in) investing activities	(153)	(815)
Net cash provided by financing activities	4,899	26,542
Net increase (decrease) in cash and cash equivalents	<u>\$ (11,136)</u>	<u>\$ 15,295</u>

Cash Flows from Operating Activities

Net cash used in operating activities was \$15.9 million for the year ended December 31, 2022. Cash used in operating activities was primarily due to the use of funds in our operations to develop our product candidates resulting in a net loss of \$17.7 million, prior to the effects of two significant noncash items, stock-based compensation expense of \$8 million and depreciation expense of \$0.4 million. Changes in operating assets and liabilities included a decrease in miscellaneous receivables of \$0.5 million due to the collection of research and development and employee retention tax credits in 2022 as well as an increase in prepaid expenses of \$0.4 million due to deposits made to clinical and manufacturing vendors relating to the initiation of Phase 3 studies for CTx-1301 and deposits to our new CMO for manufacturing activity.

Net cash used in operating activities was \$10.4 million for the year ended December 31, 2021. Cash used in operating activities was primarily due to the use of funds in our operations to develop our product candidates resulting in a net loss of \$20.7 million, prior to the effects of two significant noncash items, the one-time noncash PIU charge of \$12.7 million and depreciation expense of \$0.7 million. Changes in operating assets and liabilities included a decrease in accounts payable and accrued expenses of \$1.3 million mainly due to the payment of all deferred payroll amounts owed to employees paid in December 2021. There was also an increase in prepaid expense of \$1.2 million primarily relating to a down payment on our annual directors and officers insurance premium which had increased significantly at the completion of our IPO.

Cash Flows from Investing Activities

Net cash used in investing activities for both the years ended December 31, 2022 and December 31, 2021 was primarily related to the purchase of equipment to support our research and development.

Cash Flows from Financing Activities

Net cash provided by financing activities in the year ended December 31, 2022 was primarily related to the proceeds from the \$5.0 million related party note payable to WFIA.

Net cash provided by financing activities in the year ended December 31, 2021 was primarily related to the issuance of 208,333 shares of common stock and accompanying warrants in connection with our IPO at a share price of \$120.00 per share of common stock and accompanying warrant. We received gross proceeds of \$25.0 million and net proceeds of \$20.4 million after deducting underwriter discounts and offering expenses paid by us. We also received \$7.1 million related to the issuance of 3,243,201 equity units of CTx prior to our IPO. We paid \$0.5 million for the repayment of notes payable from related parties in December 2021.

Liquidity and Capital Resources

Sources of Liquidity

Since our inception in 2012 through September 30, 2023, we have not generated revenue and have incurred significant operating losses and negative cash flow from our operations. Assuming that we receive a minimum of \$10.0 million of proceeds from this offering, we believe that the net proceeds from this offering, together with our cash on hand, will satisfy our capital needs until the fourth quarter of 2024 under our current business plan and assuming that we receive \$5.0 million of proceeds from this offering, we believe that the net proceeds from this offering, together with our cash on hand, will satisfy our capital needs until the second quarter of 2024 under our current business plan. Following this offering, we will need to raise additional capital to fund our operations and continue to support our planned development and commercialization activities.

During the three months ended September 30, 2023, we sold 76,943 shares of common stock pursuant to the ATM Agreement, for net proceeds of \$1,595,429 after deducting \$49,502 of compensation to HCW and other administration fees. During the nine months ended September 30, 2023, we sold 82,410 shares of common stock pursuant to the ATM Agreement, for net proceeds of \$1,696,407 after deducting \$59,898 of compensation to HCW and other administration fees. Subsequent to September 30, 2023, we did not sell any shares of common stock pursuant to the ATM Agreement.

During the three months ended September 30, 2023, we sold 12,000 shares of common stock pursuant to the Lincoln Park Agreement, for net proceeds of \$196,167. During the nine months ended September 30, 2023, we sold 25,500 shares of common stock pursuant to the Lincoln Park Agreement, for net proceeds of \$450,427. Subsequent to September 30, 2023, we sold 283,800 shares of common stock pursuant to the ATM Agreement, for net proceeds of \$3,115,303 after deducting \$97,512 of compensation to HCW and other administration fees.

On August 11, 2023, we received gross proceeds of approximately \$1.0 million pursuant to the WFIA Private Placement.

On September 13, 2023, we received gross proceeds of approximately \$4.0 million, before deducting the placement agent's fees and other offering expenses, pursuant to the September 2023 Offering.

Management is also evaluating additional strategies to obtain funding, which may include additional offerings of equity, issuance of debt, or other capital sources, including potential collaborations with other companies or other strategic transactions.

In order to achieve the filing of our NDA for CTx-1301 in the first half of 2025 for potential FDA approval, we believe that we will need approximately \$14-17 million of capital. We will also need additional capital to advance our other programs and commercialization efforts. However, it is difficult to predict our spending for our product candidates prior to obtaining FDA approval. Moreover, changing circumstances may cause us to expend cash significantly faster than we currently anticipate, and we may need to spend more cash than currently expected because of circumstances beyond our control.

Our policy is to invest any cash in excess of our immediate requirements in investments designed to preserve the principal balance and provide liquidity while producing a modest return on investment. Accordingly, our cash equivalents are invested primarily in money market funds which are currently providing only a minimal return given the current interest rate environment.

We expect to continue to incur substantial additional operating losses for at least the next several years as we continue to develop our product candidates and seek marketing approval and, subject to obtaining such approval, the eventual commercialization of our product candidates. If we obtain marketing approval for our product candidates, we will incur significant sales, marketing and outsourced manufacturing expenses. In addition, we expect to incur additional expenses to add operational, financial and information systems and personnel, including personnel to support our planned product commercialization efforts. We also expect to incur significant costs to comply with corporate governance, internal controls and similar requirements applicable to us as a public company.

Our future use of operating cash and capital requirements will depend on many forward-looking factors, including the following:

- the cost and timing of manufacturing the clinical supply of our product candidates;
- the initiation, progress, timing, costs and results of clinical trials for our product candidates;
- the clinical development plans we establish for each product candidate;
- the number and characteristics of product candidates that we develop or may in-license;
- the terms of any collaboration or license agreements we may choose to execute;
- the outcome, timing and cost of meeting regulatory requirements established by the FDA or other comparable foreign regulatory authorities;
- the cost of filing, prosecuting, defending and enforcing our patent claims and other intellectual property rights;
- the cost of defending intellectual property disputes, including patent infringement actions brought by third parties against us;
- the cost and timing of the implementation of commercial scale manufacturing activities; and

- the cost and timing of outsourcing our commercialization efforts, including, sales, marketing and distribution capabilities for any product candidates for which we may receive regulatory approval in regions where we choose to commercialize our products.

To continue to grow our business over the longer term, we plan to commit substantial resources to research and development, including clinical trials of our product candidates, and other operations and potential product acquisitions and in-licensing. We have evaluated and expect to continue to evaluate a wide array of strategic transactions as part of our plan to acquire or in-license and develop additional products and product candidates to augment our internal development pipeline. Strategic transaction opportunities that we may pursue could materially affect our liquidity and capital resources and may require us to incur additional indebtedness, seek equity capital or both. In addition, we may pursue development, acquisition or in-licensing of approved or development products in new or existing therapeutic areas or continue the expansion of our existing operations. Accordingly, we expect to continue to opportunistically seek access to additional capital to license or acquire additional products, product candidates or companies to expand our operations, or for general corporate purposes. Strategic transactions may require us to raise additional capital through one or more public or private debt or equity financings or could be structured as a collaboration or partnering arrangement. We have no arrangements, agreements, or understandings in place at the present time to enter into any acquisition, licensing or similar strategic business transaction. In March 2023, we entered into a Joint Commercialization Agreement with Indegene, Inc., which will provide us with commercialization services for CTx-1301, upon approval from the FDA, including marketing, sales, market access and distribution, on a fee for service basis.

If we raise additional funds by issuing equity securities or if our debt is converted to equity, our stockholders will experience dilution. Debt financing, if available, would result in increased fixed payment obligations and may involve agreements that include covenants limiting or restricting our ability to take specific actions, such as incurring additional debt, making capital expenditures or declaring dividends. Any debt financing or additional equity that we raise may contain terms, such as liquidation and other preferences that are not favorable to us or our existing stockholders. If we raise additional funds through collaboration and licensing arrangements with third parties, it may be necessary to relinquish valuable rights to our technologies, future revenue streams or product candidates or to grant licenses on terms that may not be favorable to us. Adequate funding may not be available to us on acceptable terms, or at all. If we fail to raise capital or enter into such agreements as and when needed, we may have to significantly delay, scale back or discontinue the development and commercialization of our product candidates.

Contractual Obligations

The following summarizes our contractual obligations as of September 30, 2023 that will affect our future liquidity.

We entered into a patent and know-how licensing agreement with BDD Pharma Limited in August 2018. See “Business – Material Agreements” section of this prospectus for a description of this agreement. We are required to pay BDD Pharma certain amounts in connection with clinical trial and regulatory milestones. The first milestone payment of \$250,000 was paid in February 2023 upon dosing of the first patient in the Phase 3 adult onset and duration study for CTx-1301. Additional payments will become due upon completion of certain milestones as defined in the agreement.

We have entered into agreements with CROs for the pivotal Phase 3 fixed-dose pediatric and adolescent safety and efficacy study for CTx-1301, which commenced in late July 2023, and the Phase 3 pediatric dose-optimization, onset and duration study, which commenced in early August 2023. We have entered into agreements with a CDMO and other third parties for manufacture of the registration batches for CTx-1301 which will be needed for submission of the NDA. We have also entered into a joint commercialization agreement with Indegene, Inc., pursuant to which Indegene will provide commercialization services for CTx-1301, upon approval from the FDA, including marketing, sales, market access and distribution, on a fee for service basis. These contracts do not contain any minimum purchase commitments and are cancelable by us upon prior written notice. Payments due upon cancellation consist only of payments for services provided or expenses incurred, including noncancelable obligations of our service providers, up to the date of cancellation and in some cases, wind-down costs and restoration costs. The exact amount of such obligations is dependent on the timing of termination and the terms of the related agreement and are not known.

Going Concern

Since inception we have been engaged in organizational activities, including raising capital and research and development activities. We have not generated revenues and have not yet achieved profitable operations, nor have we ever generated positive cash flow from operations. There is no assurance that profitable operations, if achieved, could be sustained on a continuing basis. We are subject to those risks associated with any pre-clinical stage pharmaceutical company that has substantial expenditures for research and development. There can be no assurance that our research and development projects will be successful, that products developed will obtain necessary regulatory approval, or that any approved product will be commercially viable. In addition, we operate in an environment of rapid technological change that is largely dependent on the services of our employees and consultants. Further, our future operations are dependent on the success of our efforts to raise additional capital. These uncertainties raise substantial doubt about our ability to continue as a going concern for one year after the issuance date of our financial statements. The accompanying consolidated financial statements have been prepared on a going concern basis. The consolidated financial statements do not include any adjustments to reflect the possible future effects on the recoverability and classification of assets or the amounts and classification of liabilities that may result from the possible inability of the company to continue as a going concern, which contemplates the continuation of operations, realization of assets and liquidation of liabilities in the ordinary course of business. We have incurred a net loss for the three and nine-month periods ending September 30, 2023 and 2022 and had accumulated losses of \$86.0 million since inception to September 30, 2023. We anticipate incurring additional losses until such time, if ever, that we can generate significant revenue from our product candidates currently in development. Our sources of capital have included private capital raises in various classes of units of CTx prior to the Reorganization Merger, the issuance of equity securities in connection with our initial public offering, the ATM Agreement, the Lincoln Park Agreement, the WFIA Debt Financing, the WFIA Private Placement and the September 2023 Offering. Additional financings will be needed by us to fund our operations and to complete development of and commercialize our product candidates. See “Liquidity and Capital Resources” above for details relating to these agreements which we have entered into in 2023 as potential sources of additional capital. There is no assurance that such financing will be available when needed or on acceptable terms.

Recently Issued Accounting Standards

In June 2016, the FASB issued ASU 2016-13, *Measurement of Credit Losses on Financial Instruments* which significantly changes the way entities recognize impairment of many financial assets by requiring immediate recognition of estimated credit losses expected to occur over their remaining life, instead of when incurred. In November 2018, the FASB issued ASU 2018-19, *Codification Improvements to Topic 326, Financial Instruments—Credit Losses*, which amends Subtopic 326-20 (created by ASU 2016-13) to explicitly state that operating lease receivables are not in the scope of Subtopic 326-20. Additionally, in April 2019, the FASB issued ASU 2019-04, *Codification Improvements to Topic 326, Financial Instruments—Credit Losses, Topic 815, Derivatives and Hedging, and Topic 825, Financial Instruments*; in May 2019, the FASB issued ASU 2019-05, *Financial Instruments—Credit Losses (Topic 326): Targeted Transition Relief*; in November 2019, the FASB issued ASU 2019-10, *Financial Instruments—Credit Losses (Topic 326), Derivatives and Hedging (Topic 815), and Leases (Topic 842): Effective Dates*, and ASU 2019-11, *Codification Improvements to Topic 326, Financial Instruments—Credit Losses*; and in March 2020, the FASB issued ASU 2020-03, *Codification Improvements to Financial Instruments*, to provide further clarifications on certain aspects of ASU 2016-13. The changes (as amended) are effective for the Company for annual and interim periods in fiscal years beginning after December 15, 2022. The Company does not expect the adoption of ASU 2016-13 to have a material effect on its consolidated financial statements.

JOBS Act

On April 5, 2012, the JOBS Act was signed into law. The JOBS Act contains provisions that, among other things, reduce certain reporting requirements for an “emerging growth company”. As an “emerging growth company,” we are electing to take advantage of the extended transition period afforded by the JOBS Act for the implementation of new or revised accounting standards, and as a result, we will comply with new or revised accounting standards on the relevant dates on which adoption of such standards is required for emerging growth companies.

Subject to certain conditions set forth in the JOBS Act, as an “emerging growth company,” we are not required to, among other things, (i) provide an auditor’s attestation report on our system of internal controls over financial reporting pursuant to Section 404, (ii) provide all of the compensation disclosure that may be required of non-emerging growth public companies under the Dodd-Frank Wall Street Reform and Consumer Protection Act, (iii) comply with any requirement that may be adopted by the Public Company Accounting Oversight Board regarding mandatory audit firm rotation or a supplement to the auditor’s report providing additional information about the audit and the financial statements (auditor discussion and analysis), and (iv) disclose certain executive compensation-related items such as the correlation between executive compensation and performance and comparisons of the chief executive officer’s compensation to median employee compensation. These exemptions will apply until the fifth anniversary of the completion of our IPO or until we no longer meet the requirements for being an “emerging growth company,” whichever occurs first.

SECURITY OWNERSHIP AND CERTAIN BENEFICIAL OWNERS AND MANAGEMENT

The following table sets forth information about the beneficial ownership of our common stock as of January 25, 2024 (unless otherwise noted) by:

- each person or group known to us who beneficially owns more than 5% of our common stock;
- each of our directors;
- each of our Named Executive Officers; and
- all of our directors and current executive officers as a group.

We have determined beneficial ownership in accordance with the rules of the SEC. Under these rules, beneficial ownership includes any shares of common stock as to which the individual or entity has sole or shared voting power or investment power. In computing the number of shares beneficially owned by an individual or entity and the percentage ownership of that person, shares of common stock subject to options or warrants held by such person that are currently exercisable or will become exercisable within 60 days of January 25, 2024 are considered outstanding, although these shares are not considered outstanding for purposes of computing the percentage ownership of any other person.

Name of Beneficial Owner (1)	Number of Shares Beneficially Owned	Percent of Class (2)
<i>Named Executive Officers and Directors</i>		
Shane J. Schaffer, Pharm.D.	53,305(3)	3.65%
Laurie A. Myers	5,346(4)	*
Matthew Brams, MD	33,126(5)	2.28%
Louis G. Van Horn, MBA	10,170(6)	*
Craig S. Gilgallon, Esq.	12,333(7)	*
Peter J. Werth	327,085(8)	19.99%
<i>All Directors and Executive Officers as a group (6 persons)(9)</i>	451,480(10)	27.24%

* Denotes less than 1%.

- (1) Unless noted otherwise, the address of all listed stockholder is 1901 W. 47th Place, Kansas City, KS 66205. Each of the stockholders listed has sole voting and investment power with respect to the shares beneficially owned by the stockholder unless noted otherwise, subject to community property laws where applicable.
- (2) We have determined beneficial ownership in accordance with Rule 13d-3 under the Securities Exchange Act of 1934, as amended, which is generally determined by voting power and/or dispositive power with respect to securities. Percentage ownership is based on 1,450,171 shares of common stock issued and outstanding as of January 25, 2024, plus any shares issuable upon exercise of options or warrants that are exercisable with 60 days of January 25, 2024 held by such person.
- (3) Includes (i) 3,537 shares of our common stock issuable upon exercise of warrants that are currently exercisable, (ii) 7,301 shares of our common stock issuable upon the exercise of stock options that are exercisable within 60 days of January 25, 2024, and (iii) 40,392 shares of common stock held by Fountainhead Shrugged, LLC. Dr. Schaffer is the manager of Fountainhead Shrugged, LLC and has voting and investment power over the securities held by Fountainhead Shrugged, LLC. Does not include 9,558 shares of our common stock issuable upon the exercise of stock options that are not exercisable within 60 days of January 25, 2024.

- (4) Includes 2,932 shares of our common stock issuable upon the exercise of stock options that are exercisable within 60 days of January 25, 2024. Does not include 3,937 shares of our common stock issuable upon the exercise of stock options that are not exercisable within 60 days of January 25, 2024.
- (5) Includes 614 shares of our common stock issuable upon the exercise of stock options that are exercisable within 60 days of January 25, 2024. Does not include 986 shares of our common stock issuable upon the exercise of stock options that are not exercisable within 60 days of January 25, 2024.
- (6) Includes (i) 7,081 shares of common stock held by Louis G. Van Horn Trust, 12/23/19. Mr. Van Horn is the Trustee of Louis G. Van Horn Trust, 12/23/19 and has voting and investment power over the securities held by Louis G. Van Horn Trust, 12/23/19 and (ii) 2,339 shares of our common stock issuable upon the exercise of stock options that had vested as of December 13, 2023, the effective date of Mr. Van Horn's retirement from the Company.
- (7) Includes (i) 251 shares of our common stock issuable upon exercise of warrants that are currently exercisable, (ii) 2,339 shares of our common stock issuable upon the exercise of stock options that had vested as of December 15, 2023, the effective date of Mr. Gilgallon's resignation from the Company, and (iii) 9,265 shares of common stock held by The Limerick Group, LLC. Mr. Gilgallon is the sole member of The Limerick Group, LLC and has voting and investment power over the securities held by Limerick Group, LLC.
- (8) Includes (i) 185,400 shares of our common stock issuable upon exercise of warrants that are currently exercisable, (ii) 675 shares of our common stock issuable upon the exercise of stock options that are exercisable within 60 days of January 25, 2024, and (iii) 139,917 shares of common stock held by Werth Family Investment Associates LLC. Mr. Werth is the manager of Werth Family Investment Associates LLC and has voting and investment power over the securities held by Werth Family Investment Associates LLC. Does not include (x) 975 shares of our common stock issuable upon the exercise of stock options that are not exercisable within 60 days of January 25, 2024 and (y) 843,970 shares of our common stock underlying pre-funded warrants held by Werth Family Investment Associates LLC that prohibits the holder from exercising such warrants to the extent that after giving effect to such issuance after exercise, the holder (together with the holder's affiliates and any other persons acting as a group together with the holder or any of the holder's affiliates) would beneficially own in excess of 19.99% of the shares of our common stock outstanding immediately after giving effect to the issuance of the shares of our common stock issuable upon exercise of the pre-funded warrants.
- (9) Includes directors and current executive officers.
- (10) Does not include 17,284 shares of our common stock issuable upon the exercise of stock options that are not exercisable within 60 days of January 25, 2024 and 843,970 shares of our common stock underlying pre-funded warrants that are not exercisable within 60 days of January 25, 2024.

CERTAIN RELATIONSHIPS AND RELATED PARTY TRANSACTIONS

The following is a description of transactions since January 1, 2021 to which we have been a participant in which the amount involved exceeded or will exceed the lesser of (i) \$120,000 and (ii) one percent of the average of our total assets at year-end for the last two completed fiscal years in which any of our directors, executive officers or holders of more than 5% of our voting securities, or any members of their immediate family, had or will have a direct or indirect material interest, other than compensation arrangements.

Related Party Notes

On February 26, 2020, CTx issued a \$314,000 promissory note (the “February Note”) to Matthew Brams, our Chief Medical Officer. On September 30, 2020, we issued a \$40,000 promissory note (the “September Note”, and together with the February Note, the “Brams Notes”) to Mr. Brams. The Brams Notes accrued interest at the rate of 8% per annum. The principal of the Brams Notes and accrued interest thereon was convertible, at Dr. Brams’ option into preferred units of CTx at a Twenty-Five (25%) Percent discount to the offered unit price at the time of conversion. We had the right to prepay these notes without penalty or premium. On each of December 30, 2020 and July 1, 2020, we made a \$100,000 repayment of the February Note. The February Note, which initially matured on February 24, 2021 was extended for an additional 12 months to February 24, 2022. The September Note, which initially matured on September 30, 2021 was extended to February 24, 2022. On July 1, 2021 we made a \$100,000 payment on the February Note and on August 17, 2021, we made a \$50,000 payment on the February Note. As of closing of our IPO, we owed \$104,000 and \$37,025 in principal and interest, respectively, on the Brams Notes, which were paid in full in December 2021 with IPO proceeds.

On July 25, 2020, CTx issued a \$100,000 promissory note (the “July Note”) to Raul R. Silva, our Executive Vice President and Chief Science Officer. The July Note accrued interest at the rate of 8% per annum. The principal of the July Note and accrued interest thereon was convertible, at Dr. Silva’s option into preferred units of CTx at a Twenty-Five (25%) Percent discount to the offered unit price at the time of conversion. We had the right to prepay this note without penalty or premium. The July Note, which initially matured on July 24, 2021, was extended for an additional seven months to February 24, 2022. As of the closing of our IPO, we owed \$100,000 and \$11,047 in principal and interest, respectively, on the July Note, which was paid in full in December 2021 with IPO proceeds.

On February 1, 2020, CTx issued a \$500,000 promissory note to Dresch, Inc., a former CTx member (the “Member Note”, and together with the Brams Notes and the July Note, the “Related Party Notes”). Principal and interest of the Member Note was convertible upon lender’s notice into preferred units of CTx at the offered unit prices at the time of conversion. On September 30, 2020, \$353,665 was converted to 246,096 Preferred Units of CTx at the current unit price in accordance with the terms of the Member Note leaving a note payable amount of \$146,335. The Member Note, which initially matured on February 1, 2021 was extended for an additional 12 months to February 1, 2022. As of the closing of our IPO, we owed \$146,335 and \$39,941 in principal and interest, respectively, on the Member Note, which was paid in full in December 2021 with IPO proceeds.

Initial Public Offering

Patrick Gallagher, a member of our Board, is a Senior Managing Director at Laidlaw & Co. and a Managing Partner at Laidlaw Venture Partners. Laidlaw & Company (UK) Ltd. acted as co-lead book-running underwriter for our IPO, which closed December 10, 2021. The discounts and commissions paid to Laidlaw & Company (UK) Ltd. in connection with the IPO were approximately \$500,000.

WFIA Note

On August 9, 2022, CTx issued a \$5.0 million (the “Original Principal Amount”) promissory note in favor of WFIA (the “Original Note”). Peter Werth, a member of our Board is manager of WFIA. The Original Note was unsecured with interest accruing at 15% per annum. Outstanding principal and all accrued and unpaid interest were due and payable on August 8, 2025, or 120 days following written demand made by WFIA during the first five business days of a calendar quarter beginning April 1, 2023. CTx was permitted to prepay the Original Note, in whole or in part, without premium or penalty; provided, that no amount repaid was permitted to be reborrowed.

On May 9, 2023, CTx executed an amended and restated promissory note (the “WFIA Note”) in favor of WFIA that increased the principal amount of the Original Note from \$5.0 million to \$8.0 million.

On September 8, 2023, we entered into a note conversion agreement with WFIA, pursuant to which WFIA agreed to convert the Original Principal Amount under the WFIA Note plus all accrued interest thereon, or \$5,812,500, into pre-funded warrants (“September WFIA Pre-Funded Warrants”) to purchase 341,912 shares of our common stock at a conversion price per September WFIA Pre-Funded Warrant of \$17.00. The September WFIA Pre-Funded Warrants have no expiration date and are exercisable immediately at an exercise price of \$0.002 per share, to the extent that after giving effect to such exercise, WFIA and its affiliates would beneficially own, for purposes of Section 13(d) of the Exchange Act, no more than 19.99% of the outstanding shares of Common Stock of the Company.

On January 25, 2024, we entered into the January 2024 Note Conversion Agreement and converted the remaining \$3.0 million of principal plus all accrued interest, or \$3,287,500, under the note payable to WFIA into the January WFIA Pre-Funded Warrants to purchase 687,043 shares of common stock at a conversion price per pre-funded warrant of \$4.785. The closing price of our common stock on January 24, 2024 was \$4.35. The January 2024 Pre-Funded Warrants have no expiration date and are exercisable immediately at an exercise price of \$0.0001 per share, to the extent that after giving effect to such exercise, WFIA and its affiliates would beneficially own, for purposes of Section 13(d) of the Exchange Act, no more than 19.99% of the outstanding shares of our common stock.

The outstanding principal and all accrued and unpaid interest was due and payable on August 8, 2025 unless accelerated due to an event of default. Beginning July 1, 2023, WFIA had the right during the first five business days of each calendar quarter to demand payment of all outstanding principal and interest 120 days following notice to CTx. CTx was permitted to prepay the WFIA Note, in whole or in part, without premium or penalty; provided, that no amount repaid was permitted to be reborrowed. As of September 30, 2023, there was \$3,000,000 in principal and \$157,339 of accrued interest outstanding under the WFIA Note. As of the date hereof, the WFIA Note has been paid in full and the Company has no further obligations under the WFIA Note.

WFIA August 2023 Private Placement

On August 11, 2023, we entered into a Securities Purchase Agreement (the “August 2023 Purchase Agreement”) with WFIA and issued, in a private placement priced at the market under Nasdaq rules, 51,158 shares of our common stock at a purchase price per share of \$10.97, for aggregate gross proceeds to us of approximately \$1.0 million, before deducting transaction expenses payable by us (the “WFIA Private Placement”). The WFIA Private Placement closed on August 11, 2023.

Indemnification of Officers and Directors

We have entered into indemnification agreements with each of our current directors and executive officers. These agreements require us to indemnify these individuals to the fullest extent permitted under Delaware law against liabilities that may arise by reason of their service to us, and to advance expenses incurred as a result of any proceeding against them as to which they could be indemnified. We also intend to enter into indemnification agreements with our future directors and executive officers.

Policies and Procedures for Related Party Transactions

We adopted policies and procedures for related party transactions that prohibit our executive officers, directors, nominees for election as a director, beneficial owners of more than 5% of any class of our common stock, any members of the immediate family of any of the foregoing persons and any firms, corporations or other entities in which any of the foregoing persons is employed or is a partner or principal or in a similar position or in which such person has a 5% or greater beneficial ownership interest, or related parties, from entering into a transaction with us without the prior consent of our Board acting through the Audit Committee or, in certain circumstances, the chairman of the Audit Committee. Any request for us to enter into a transaction with a related party, in which the amount involved will, or may be expected to, exceed \$100,000 and such related party would have a direct or indirect interest must first be presented to our Audit Committee, or in certain circumstances the chairman of our Audit Committee, for review, consideration and approval. In approving or rejecting any such proposal, our Audit Committee is to consider the material facts of the transaction, including, but not limited to, whether the transaction is on terms no less favorable than terms generally available to an unaffiliated third party under the same or similar circumstances, the extent of the benefits to us, the availability of other sources of comparable products or services and the extent of the related person’s interest in the transaction. In December 2023, our four independent members of our Board resigned and we do not currently have an Audit Committee, a Compensation Committee or a Nominating and Corporate Governance Committee.

MANAGEMENT

Executive Officers and Directors

The following table provides information regarding our executive officers and directors with their respective ages as of January 25, 2024:

Name	Age	Position
Executive Officers:		
Shane J. Schaffer, PharmD	49	Chief Executive Officer and Chairman of the Board
Jennifer L. Callahan	53	Senior Vice President and Chief Financial Officer
Laurie A. Myers, PhD	67	Executive Vice President and Chief Operating Officer
Raul R. Silva, MD	66	Executive Vice President and Chief Science Officer
Matthew Brams, MD	60	Executive Vice President and Chief Medical Officer
Directors:		
Peter J. Werth	85	Director

Shane J. Schaffer, PharmD co-founded Cingulate in 2012 and has since served as our Chief Executive Officer and Chairman of our Board. Prior to his work at Cingulate, Dr. Schaffer served as the Managing Director of Sabre Scientific Solutions, from July 2009 through December 2012. Previously, Dr. Schaffer worked as a Director of National Accounts at Pri-Med Access from September 2008 through May 2009, Senior Marketing at Sanofi from February 2004 through December 2007, and as a Marketing Manager at Novartis from June 2001 through October 2003. From July 1999 through June 2001, he served as Chief Fellow of the Rutgers Pharmaceutical Industry Fellowship Program and was Senior Fellow at Warner Lambert/Parke Davis and Pfizer. From June 1997 to July 1999, he worked as a clinical research associate at Hoechst Marion Roussel. Dr. Schaffer has over 25 years' experience in drug development, commercialization and biotech commercial operation. Dr. Schaffer received his Doctor of Pharmacy from The University of Kansas School of Pharmacy. We believe that Dr. Schaffer's extensive knowledge of the pharmaceutical industry, his clinical and commercial background in a wide range of therapeutic areas, and his experience serving as our Chief Executive Officer, qualifies him to serve on our Board.

Jennifer L. Callahan was appointed Senior Vice President and Chief Financial Officer on January 25, 2024. She has served the Company in an accounting role since January 2017 and was appointed as our Vice President, Corporate Controller in January 2019. Prior to her role at the Company, Ms. Callahan served as the Director of Accounting for Meridian Business Services, a local Kansas City accounting firm since 2014 where she provided outsourced controller services to various businesses, including start-up companies and companies in need of process improvements. Over the tenure of her career, Ms. Callahan has provided consulting services to companies in a variety of industries and stages. She started her career with Deloitte where she served in various roles in the audit practice from June 1992 to December 1998. Ms. Callahan holds a CPA designation and received a BSBA in Accounting and Finance from Creighton University.

Laurie A. Myers, PhD, MBA has served as our Executive Vice President and Chief Operating Officer since April 2018 and previously served as a member of our Board from June 2013 through April 2018 and as our Senior Vice President of Operations from November 2017 to April 2018. Dr. Myers also serves as a Member of the Board of Advisors of Linea System, LLC, a position she has held since September 2020. Dr. Myers previously served as the Head of Marketing of Fidia Pharma USA Inc., a wholly owned subsidiary of Fidia Farmaceutici from September 2014 through November 2017. Dr. Myers was an Adjunct Professor at the College of New Jersey School of Business from January 2012 through December 2014, and served as President and a Member of the Board of the Hallett David Strategic Group from January 2010 through September 2014. Dr. Myers received her Doctor of Philosophy in Toxicology from Rutgers Medical School and Rutgers School of Pharmacy, her Masters in Business Administration from St. Joseph's University and her Master of Science and Bachelor of Science from the University of Scranton.

Raul R. Silva, MD co-founded Cingulate in 2013 and has served as our Executive Vice President and Chief Science Officer since January 2018. He has been in private practice since 2009. Previously, Dr. Silva served as Executive Director of Rockland Children's Psychiatric Center from 2006-2009. He also served as Vice Chairman of The New York University Child Study Center 2005 through 2009. Dr. Silva served as Deputy Director of Child Psychiatry at Bellevue Hospital Center from 1999 through 2006. Prior to that, he was Director of Child and Adolescent Psychiatry at St. Luke's/Roosevelt Hospital in New York City from 1995 through 1990. He completed his fellowship in child and adolescent psychiatry at Columbia University's St. Luke's/Roosevelt Hospital Center in 1990. Dr. Silva completed a psychopharmacology research fellowship at New York University Medical Center. Dr. Silva is board certified in general, child and adolescent psychiatry. Dr. Silva received his Doctor of Medicine degree from Ross University and his Bachelor of Science in Biology from Fairleigh Dickinson University.

Matthew N. Brams, MD co-founded Cingulate in 2013 and has served as our Executive Vice President and Chief Medical Officer since January 2018 and served as a director of Cingulate from January 2018 through July 2021. Dr. Brams served as a Principal of Bayou City Research, a position he held from April 1999 to January 2021. Prior to that, he served as a consultant medical director and/or admitting Psychiatrist at numerous medical facilities including Taylor Recover Center (April 2019 to present); Lakeview Health Rehabilitation Center (2018-2019); The Parc, Houston Tx (2012-2015); GeroPsych Unit Gulf Coast Hospital (2009-Present). Dr. Brams has been integral to the research teams for all the major pharmaceutical companies participating in the ADHD clinical arena. Dr. Brams completed residency and fellowship at Baylor College of Medicine in adult and child psychiatry, respectively. He is board certified in Adult and Child Psychiatry (1994) and is an acting Senior Board Examiner for the American Board of Psychiatry and Neurology. He received his Doctor of Medicine from The University of Texas Science Center and his Bachelor of Arts in Biology from the University of Texas.

Peter J. Werth has served on our Board since June 2018. Mr. Werth is Founder and Chief Executive Officer of ChemWerth Inc., a full-service generic drug development and supply company providing Active Pharmaceutical Ingredients to regulated markets worldwide. Mr. Werth previously served as Vice President at Ganes Chemicals, a subsidiary of Siegfried Chemicals, from March 1975 through May 1982. From 1965 through 1975, Mr. Werth worked in Research and Development for Upjohn Pharmaceuticals, now Pfizer (NYSE: PFE). In addition to serving on the Board of Cingulate, Mr. Werth serves on the Board of Directors of VM Pharma LLC since December 2010, VM Therapeutics LLC since May 2012, Alopexx Vaccines LLC since June 2012, VM Oncology LLC since August 2014, Perseus Science Group LLC since January 2015, Likarda LLC since August 2017, Techtone LLC since September 2017, MedRhythms LLC since June 2018 and Bastion Healthcare LLC since September 2020. He earned his Master of Science in Organic Chemistry from Stanford University and his Bachelor of Science in Chemistry and Math from Fort Hays State University. We believe that Mr. Werth's extensive experience in the life sciences industry and his knowledge in business and international markets qualifies him to serve on our Board.

Family Relationships

There are no family relationships among any of our directors or executive officers.

Board Composition

Our Board currently consists of two members. Our directors hold office until their successors have been elected and qualified or until the earlier of their resignation or removal.

In accordance with the terms of our amended and restated certificate of incorporation and bylaws, our Board is divided into three classes, class I, class II and class III, with each class serving staggered three-year terms. Upon the expiration of the term of a class of directors, directors in that class will be eligible to be elected for a new three-year term at the annual meeting of stockholders in the year in which their term expires. Our directors are divided among the three classes as follows:

- The Class I director is Peter J. Werth; his term will expire at the annual meeting of stockholders to be held in 2025.
- The Class III director is Shane J. Schaffer; his term will expire at the annual meeting of stockholders to be held in 2024.

We currently do not have any Class II Directors. We expect that any additional directorships resulting from an increase in the number of directors will be distributed among the three classes so that, as nearly as possible, each class will consist of one-third of the directors. The division of our Board into three classes with staggered three-year terms may delay or prevent a change of our management or a change in control.

Our amended and restated certificate of incorporation and amended and restated bylaws provide that the authorized number of directors may be changed only by resolution of our Board. Our amended and restated certificate of incorporation and amended and restated bylaws also provide that our directors may be removed only for cause, and that any vacancy on our Board, including a vacancy resulting from an enlargement of our Board, may be filled only by vote of a majority of our directors then in office.

We do not have a formal policy with regard to the consideration of diversity in identifying director nominees. The Board evaluates each individual in the context of the Board as a whole, with the objective of assembling a group that can best perpetuate the success of the business and represent stockholder interests through the exercise of sound judgment using its diversity of experience in these various areas.

Director Independence

Pursuant to the rules of Nasdaq, a director will only qualify as an "independent director" if, in the opinion of that company's board of directors, that person does not have a relationship that would interfere with the exercise of independent judgment in carrying out the responsibilities of a director.

Our Board has determined that we do not currently have any directors that qualify as "independent directors" as such term is defined by Nasdaq Marketplace Rule 5605(a)(2). Due to the promissory note issued by CTx in favor of WFIA, our Board determined that Mr. Werth is not an independent director. In addition, Shane Schaffer is not an independent director due to his position as Chief Executive Officer of the Company. Scott Applebaum, who resigned from the Board on December 6, 2023, Patrick Gallagher who resigned from the Board on December 12, 2023 and each of Gregg Givens and Curt Medeiros who resigned from the Board on December 13, 2023, were deemed to be independent directors.

We do not currently have an Audit Committee, a Compensation Committee nor a Nominating and Corporate Governance Committee, and the Company is in the process of selecting additional directors. Once additional board members are appointed to our Board, an independence analysis will be performed based on the listing standards of the Nasdaq Rule.

On December 26, 2023, we received a letter from the Staff indicating that, based upon the resignation of three members of our Board on December 12, 2023 and December 13, 2023, we no longer comply with the independent director, audit committee, compensation committee and independent director oversight of director nominations requirements as set forth in Nasdaq Listing Rule 5605 (the "Independent Director Rule"). We are in the process of identifying potential new directors and intend to show progress in complying with the Independent Director Rule prior to the Panel hearing. There can be no assurance that we will regain compliance with the Independent Director Rule.

EXECUTIVE COMPENSATION

The following tables and accompanying disclosure set forth information about the compensation earned by our named executive officers during 2023. Our named executive officers include our principal executive officer, the two most highly-compensated executive officers (other than our principal executive officer) serving as executive officers as of December 31, 2023 and two former executive officers that would have been one of the two most highly-compensated executive officers (other than our principal executive officer) had they been serving as an executive officer as of December 31, 2023 as set forth below:

- Shane J. Schaffer, Chief Executive Officer and Chairman of the Board;
- Laurie A. Myers, Executive Vice President and Chief Operating Officer;
- Matthew N. Brams, Executive Vice President and Chief Medical Officer;
- Louis G. Van Horn, Former Executive Vice President and Chief Financial Officer; and
- Craig S. Gilgallon, Esq., Former Executive Vice President, General Counsel and Secretary.

SUMMARY COMPENSATION TABLE

The following table sets forth information regarding compensation awarded to, earned by or paid to each of our named executive officers for the years shown.

Name and Principal Position	Year	Salary (\$)	Bonus \$(1)	Stock Awards (\$)	Option Awards \$(2)	Non-Equity Incentive Plan Compensation (\$)	All Other Compensation (\$)	Total (\$)
Shane J. Schaffer, <i>Chairman and CEO</i>	2023	491,961	-	-	137,610	-	-	629,571
	2022	475,000	29,688	-	78,503	-	-	583,191
Laurie A. Myers <i>EVP and COO</i>	2023	415,167	-	-	61,160	-	-	476,327
	2022	400,000	25,000	-	34,890	-	-	459,890
Matthew N. Brams <i>EVP and CMO</i>	2023	244,792	-	-	22,935	-	-	267,727
Louis G. Van Horn, <i>Former EVP and CFO (3)</i>	2023	382,205	-	-	76,450	-	-	458,655
	2022	380,000	23,750	-	34,890	-	-	438,640
Craig S. Gilgallon <i>Former EVP, GC and Secretary (4)</i>	2023	385,250	-	-	61,160	-	-	446,410
	2022	380,000	23,750	-	34,890	-	-	438,640

(1) The bonus amounts represent the annual bonuses earned by our named executive officers in 2022.

(2) The amounts reflect the grant date fair value of the non-qualified stock option awards on February 28, 2023, February 25, 2022 and December 7, 2021, in accordance with FASB ASC Topic 718. The fair market value of the option awards was determined using the Black-Scholes Model. See Note 10 to our consolidated financial statements for the year ended December 31, 2021 for the assumptions used to estimate the grant date fair value of the stock options awards in December 2021. See Note 11 to our consolidated financial statements for the year ended December 31, 2022 for the weighted average assumptions used to estimate the grant date fair value of the stock option awards in 2022. The assumptions used to estimate the grant date fair value of the stock option awards in February 2023 were as follows:

Risk-free interest rate	0.04%
Expected term (in years)	6.08
Expected volatility	1.13
Expected dividend yield	0%
Grant date fair value	\$30.58

(3) Mr. Van Horn retired from the Company, effective December 13, 2023.

(4) Mr. Gilgallon resigned as an officer of the Company and terminated employment with Cingulate Therapeutics LLC (“CTx”), effective December 15, 2023. Mr. Gilgallon claims his termination was for “good reason” pursuant to Section 4(e) of his employment agreement with CTx dated September 23, 2021. The Company disputes Mr. Gilgallon’s claim. Subject to execution of a general release in favor of the Company, termination for “good reason” pursuant to Mr. Gilgallon’s employment agreement would entitle him to a lump sum payment equal to his base salary (\$402,800) and target bonus (\$100,500) within 60 days of his termination date. In addition, any of Mr. Gilgallon’s outstanding stock options that would have vested if he had remained employed for an additional four (4) months following his termination date shall become vested and exercisable as of the termination date and all vested stock options would be exercisable for their full term.

Employee Benefit Plans

We currently provide broad-based health and welfare benefits that are available to all of our employees, including our named executive officers, including medical, dental, and vision insurance.

401(k) Plan

We sponsor a 401(k) savings plan (the “401(k) Plan”) for all eligible employees. Under the 401(k) Plan, we do not make matching contributions into the 401(k) Plan other than the annual required safe harbor match.

Contingent Bonus Plan

In connection with the reduction in annual base salary for all employees, effective December 16, 2023, and to incentivize employees to remain with the Company, the independent members of the Board approved a contingent bonus plan. Pursuant to this plan, the Company will pay to each employee on the date that is three months after the filing date of the New Drug Application for CTx-1301 with the FDA (the “payment date”) an amount equal to the aggregate dollar amount of base salary through the payment date that was not paid to the employee due to the salary reductions plus 20% of the reduction amount.

Employment Arrangements with our Named Executive Officers

Shane J. Schaffer

On September 23, 2021, we entered into an employment agreement with Dr. Schaffer. Under the terms of Dr. Schaffer’s employment agreement, he holds the position of Chief Executive Officer. The employment agreement originally provided for a base salary of \$475,000 annually, which was increased to \$503,500, effective January 1, 2023. In connection with cost containment measures, Mr. Schaffer’s annual base salary was reduced to \$226,350, effective December 16, 2023. In addition, Dr. Schaffer is eligible to receive an annual bonus, with a target amount equal to twenty-five percent (25%) of Dr. Schaffer’s annual base salary. The actual amount of each bonus will be determined by the sole discretion of our Compensation Committee and will be based upon both the Company’s performance and Dr. Schaffer’s individual performance. Pursuant to the terms of his employment agreement, Dr. Schaffer is also eligible to participate in all incentive and deferred compensation programs available to other executives or officers of the Company, and will be eligible to participate in any employee benefit plans and equity plans that we may adopt, which plans may be amended by the Company from time to time in its sole discretion.

We may terminate Dr. Schaffer’s employment at any time without cause upon providing written notice to Dr. Schaffer, and Dr. Schaffer may terminate his employment at any time for any reason, including for Good Reason (as that term is defined in Dr. Schaffer’s employment agreement).

If Dr. Schaffer's employment is terminated by the Company without cause or by Dr. Schaffer for Good Reason, Dr. Schaffer will be entitled to receive, subject to his signing a general release of claims in favor of the Company and related persons and entities within twenty-one (21) days of the date of termination and following the expiration of seven (7) days thereafter, a severance payment of a lump sum amount in cash equal to one and one half (1 ½) times Dr. Schaffer's base salary and annual target bonus, within 60 days following the date of termination. In addition, all stock options and stock appreciation rights held by Dr. Schaffer, which would have vested if he had remained employed for an additional four (4) months following the date of termination, shall become vested and exercisable as of the date of termination for the remainder of their full term. If Dr. Schaffer's employment is terminated by the Company without cause or by Dr. Schaffer for Good Reason within twelve (12) months of a Change of Control, Dr. Schaffer will be entitled to receive, subject to his signing a general release of claims in favor of the Company and related persons and entities within twenty-one (21) days of the date of termination and following the expiration of seven (7) days thereafter, a severance payment of a lump sum amount in cash equal to two (2) times Dr. Schaffer's base salary and annual target bonus, within 60 days following the date of termination; provided however, if any payment or benefits would constitute an "parachute payment" as defined in Section 280(G) of the Internal Revenue Code, the payments will be the greater of (i) the largest amount to ensure that no portion of those payments be subject to the excise tax imposed by Section 4999 of the Internal Revenue Code and (ii) the amount of the full payment, less all taxes, including the excise tax imposed by Section 4999 of the Internal Revenue Code. In addition, all stock options and stock appreciation rights held by Dr. Schaffer shall become vested and exercisable as of the date of termination for the remainder of their full term.

Laurie A. Myers

On September 23, 2021, we entered into an employment agreement with Ms. Myers. Under the terms of Ms. Myers' employment agreement, she holds the positions of Executive Vice President and Chief Operating Officer. The employment agreement originally provided for a base salary of \$400,000 annually, which was increased to \$424,000, effective January 1, 2023. In connection with cost containment measures, Ms. Myers' annual base salary was reduced to \$212,000, effective December 16, 2023. In addition, Ms. Myers is eligible to receive an annual bonus, with a target amount equal to twenty-five percent (25%) of Ms. Myers' annual base salary. The actual amount of each bonus will be determined by the sole discretion of our Compensation Committee and will be based upon both the Company's performance and Ms. Myers' individual performance, as recommended by the Chief Executive Officer. Pursuant to the terms of her employment agreement, Ms. Myers is also eligible to participate in all incentive and deferred compensation programs available to other executives or officers of the Company, and will be eligible to participate in any employee benefit plans and equity plans that we may adopt, which plans may be amended by the Company from time to time in its sole discretion.

We may terminate Ms. Myers' employment at any time without cause upon providing written notice to Ms. Myers, and Ms. Myers may terminate her employment at any time for any reason, including for Good Reason (as that term is defined in Ms. Myers' employment agreement).

If Ms. Myers' employment is terminated by the Company without cause or by Ms. Myers for Good Reason, Ms. Myers will be entitled to receive, subject to her signing a general release of claims in favor of the Company and related persons and entities within twenty-one (21) days of the date of termination and following the expiration of seven (7) days thereafter, a severance payment of a lump sum amount in cash equal to one (1) times Ms. Myers' base salary and annual target bonus, within 60 days following the date of termination. In addition, all stock options and stock appreciation rights held by Ms. Myers, which would have vested if she had remained employed for an additional four (4) months following the date of termination, shall become vested and exercisable as of the date of termination for the remainder of their full term. If Ms. Myers' employment is terminated by the Company without cause or by Ms. Myers for Good Reason within twelve (12) months of a Change of Control, Ms. Myers will be entitled to receive, subject to her signing a general release of claims in favor of the Company and related persons and entities within twenty-one (21) days of the date of termination and following the expiration of seven (7) days thereafter, a severance payment of a lump sum amount in cash equal to one (1) times Ms. Myers' base salary and annual target bonus, within 60 days following the date of termination; provided however, if any payment or benefits would constitute an "parachute payment" as defined in Section 280(G) of the Internal Revenue Code, the payments will be the greater of (i) the largest amount to ensure that no portion of those payments be subject to the excise tax imposed by Section 4999 of the Internal Revenue Code and (ii) the amount of the full payment, less all taxes, including the excise tax imposed by Section 4999 of the Internal Revenue Code. In addition, all stock options and stock appreciation rights held by Ms. Myers shall become vested and exercisable as of the date of termination for the remainder of their full term.

On September 23, 2021, we entered into an employment agreement with Mr. Brams. Under the terms of Mr. Brams's employment agreement, he holds the positions of Executive Vice President and Chief Medical Officer. The employment agreement originally provided for a base salary of \$200,000 annually, which was increased to \$250,000, effective January 1, 2023. In connection with cost containment measures, Mr. Brams' annual base salary was reduced to \$125,000, effective December 16, 2023. Effective January 1, 2024, Mr. Brams' employment agreement was amended (i) to modify Mr. Bram's annual base salary to an amount to allow (a) Mr. Brams to contribute to the 401(k) Plan the maximum amount permitted by the Internal Revenue Service and (b) the Company to withhold the minimum statutory amount to satisfy federal, state and local taxes and (ii) to provide that the Company will grant Mr. Brams 1,000 non-qualified stock options on the last business day of each calendar quarter pursuant to the Company's 2021 Omnibus Equity Incentive Plan.

Mr. Brams is eligible to receive an annual bonus, with a target amount equal to twenty-five percent (25%) of Mr. Brams's annual base salary. The actual amount of each bonus will be determined by the sole discretion of our Compensation Committee and will be based upon both the Company's performance and Brams's individual performance, as recommended by the Chief Executive Officer. Pursuant to the terms of his employment agreement, Mr. Brams is also eligible to participate in all incentive and deferred compensation programs available to other executives or officers of the Company, and will be eligible to participate in any employee benefit plans and equity plans that we may adopt, which plans may be amended by the Company from time to time in its sole discretion.

We may terminate Mr. Brams's employment at any time without cause upon providing written notice to Mr. Brams, and Mr. Brams may terminate his employment at any time for any reason, including for Good Reason (as that term is defined in Mr. Brams's employment agreement).

If Mr. Brams's employment is terminated by the Company without cause or by Mr. Brams for Good Reason, Mr. Brams will be entitled to receive, subject to his signing a general release of claims in favor of the Company and related persons and entities within twenty-one (21) days of the date of termination and following the expiration of seven (7) days thereafter, a severance payment in twelve (12) equal monthly payments equal to one (1) times Mr. Brams's base salary, within 60 days following the date of termination. In addition, all stock options and stock appreciation rights held by Mr. Brams, which would have vested if he had remained employed for an additional four (4) months following the date of termination, shall become vested and exercisable as of the date of termination for the remainder of their full term. If Mr. Brams's employment is terminated by the Company without cause or by Mr. Brams for Good Reason within twelve (12) months of a Change of Control, Mr. Brams will be entitled to receive, subject to his signing a general release of claims in favor of the Company and related persons and entities within twenty-one (21) days of the date of termination and following the expiration of seven (7) days thereafter, a severance payment of a lump sum amount in cash equal to one (1) times Mr. Brams's base salary, within 60 days following the date of termination; provided however, if any payment or benefits would constitute an "parachute payment" as defined in Section 280(G) of the Internal Revenue Code, the payments will be the greater of (i) the largest amount to ensure that no portion of those payments be subject to the excise tax imposed by Section 4999 of the Internal Revenue Code and (ii) the amount of the full payment, less all taxes, including the excise tax imposed by Section 4999 of the Internal Revenue Code. In addition, all stock options and stock appreciation rights held by Mr. Brams shall become vested and exercisable as of the date of termination for the remainder of their full term.

Louis G. Van Horn

On September 23, 2021, we entered into an employment agreement with Mr. Van Horn. Under the terms of Mr. Van Horn's employment agreement, he held the positions of Executive Vice President and Chief Financial Officer. The employment agreement originally provided for a base salary of \$380,000 annually, which was increased to \$406,600, effective January 1, 2023. In addition, Mr. Van Horn was eligible to receive an annual bonus, with a target amount equal to twenty-five percent (25%) of Mr. Van Horn's annual base salary. The actual amount of each bonus was determined by the sole discretion of our Compensation Committee and based upon both the Company's performance and Mr. Van Horn's individual performance, as recommended by the Chief Executive Officer. Pursuant to the terms of his employment agreement, Mr. Van Horn was also eligible to participate in all incentive and deferred compensation programs available to other executives or officers of the Company, and eligible to participate in any employee benefit plans and equity plans that we adopted.

We had the right to terminate Mr. Van Horn's employment at any time without cause upon providing written notice to Mr. Van Horn, and Mr. Van Horn had the right to terminate his employment at any time for any reason, including for Good Reason (as that term is defined in Mr. Van Horn's employment agreement).

If Mr. Van Horn's employment was terminated by the Company without cause or by Mr. Van Horn for Good Reason, Mr. Van Horn would have been entitled to receive, subject to his signing a general release of claims in favor of the Company and related persons and entities within twenty-one (21) days of the date of termination and following the expiration of seven (7) days thereafter, a severance payment of a lump sum amount in cash equal to one (1) times Mr. Van Horn's base salary and annual target bonus, within 60 days following the date of termination. In addition, all stock options and stock appreciation rights held by Mr. Van Horn, which would have vested if he had remained employed for an additional four (4) months following the date of termination, would have become vested and exercisable as of the date of termination for the remainder of their full term. If Mr. Van Horn's employment had been terminated by the Company without cause or by Mr. Van Horn for Good Reason within twelve (12) months of a Change of Control, Mr. Van Horn would have been entitled to receive, subject to his signing a general release of claims in favor of the Company and related persons and entities within twenty-one (21) days of the date of termination and following the expiration of seven (7) days thereafter, a severance payment of a lump sum amount in cash equal to one (1) times Mr. Van Horn's base salary and annual target bonus, within 60 days following the date of termination; provided however, if any payment or benefits would have constituted a "parachute payment" as defined in Section 280(G) of the Internal Revenue Code, the payments would have been the greater of (i) the largest amount to ensure that no portion of those payments be subject to the excise tax imposed by Section 4999 of the Internal Revenue Code and (ii) the amount of the full payment, less all taxes, including the excise tax imposed by Section 4999 of the Internal Revenue Code. In addition, all stock options and stock appreciation rights held by Mr. Van Horn would have become vested and exercisable as of the date of termination for the remainder of their full term.

Mr. Van Horn retired from his position as our Chief Financial Officer on December 13, 2023.

Craig S. Gilgallon, Esq.

On September 23, 2021, we entered into an employment agreement with Mr. Gilgallon. Under the terms of Mr. Gilgallon's employment agreement, he held the positions of Executive Vice President and General Counsel. The employment agreement originally provided for a base salary of \$380,000 annually, which was increased to \$402,800, effective January 1, 2023. In addition, Mr. Gilgallon was eligible to receive an annual bonus, with a target amount equal to twenty-five percent (25%) of Mr. Gilgallon's annual base salary. The actual amount of each bonus would have been determined by the sole discretion of our Compensation Committee and based upon both the Company's performance and Mr. Gilgallon's individual performance, as recommended by the Chief Executive Officer. Pursuant to the terms of his employment agreement, Mr. Gilgallon was also eligible to participate in all incentive and deferred compensation programs, and other executive retirement plans available to other executives or officers of the Company, and would have been eligible to participate in any employee benefit plans and equity plans that we adopted, which plans may be amended by the Company from time to time in its sole discretion.

We had the right to terminate Mr. Gilgallon's employment at any time without cause upon providing written notice to Mr. Gilgallon, and Mr. Gilgallon had the right to terminate his employment at any time for any reason, including for Good Reason (as that term is defined in Mr. Gilgallon's employment agreement).

If Mr. Gilgallon's employment had been terminated by the Company without cause or by Mr. Gilgallon for Good Reason, Mr. Gilgallon would have been entitled to receive, subject to his signing a general release of claims in favor of the Company and related persons and entities within twenty-one (21) days of the date of termination and following the expiration of seven (7) days thereafter, a severance payment of a lump sum amount in cash equal to one (1) times Mr. Gilgallon's base salary and annual target bonus, within 60 days following the date of termination. In addition, all stock options and stock appreciation rights held by Mr. Gilgallon, which would have vested if he had remained employed for an additional four (4) months following the date of termination, would have become vested and exercisable as of the date of termination for the remainder of their full term. If Mr. Gilgallon's employment had been terminated by the Company without cause or by Mr. Gilgallon for Good Reason within twelve (12) months of a Change of Control, Mr. Gilgallon would have been entitled to receive, subject to his signing a general release of claims in favor of the Company and related persons and entities within twenty-one (21) days of the date of termination and following the expiration of seven (7) days thereafter, a severance payment of a lump sum amount in cash equal to one (1) times Mr. Gilgallon's base salary and annual target bonus, within 60 days following the date of termination; provided however, if any payment or benefits would have constituted a "parachute payment" as defined in Section 280(G) of the Internal Revenue Code, the payments would have been the greater of (i) the largest amount to ensure that no portion of those payments be subject to the excise tax imposed by Section 4999 of the Internal Revenue Code and (ii) the amount of the full payment, less all taxes, including the excise tax imposed by Section 4999 of the Internal Revenue Code. In addition, all stock options and stock appreciation rights held by Mr. Gilgallon would have become vested and exercisable as of the date of termination for the remainder of their full term.

Mr. Gilgallon resigned as an officer of the Company and terminated employment with Cingulate Therapeutics LLC, effective December 15, 2023. Mr. Gilgallon resigned as an officer of the Company and terminated employment with CTx, effective December 15, 2023. Mr. Gilgallon claims his termination was for "good reason" pursuant to Section 4(e) of his employment agreement with CTx dated September 23, 2021. The Company disputes Mr. Gilgallon's claim. Subject to execution of a general release in favor of the Company, termination for "good reason" pursuant to Mr. Gilgallon's employment agreement would entitle him to a lump sum payment equal to his base salary (\$402,800) and target bonus (\$100,500) within 60 days of his termination date. In addition, any of Mr. Gilgallon's outstanding stock options that would have vested if he had remained employed for an additional four (4) months following his termination date shall become vested and exercisable as of the termination date and all vested stock options would be exercisable for their full term.

Outstanding Equity Awards at 2023 Fiscal Year-End

<u>Name</u>	<u>Grant date</u>		<u>Number of securities underlying unexercised options (#) exercisable (1)</u>	<u>Number of securities underlying unexercised options (#) unexercisable (1)</u>	<u>Option exercise price (\$) (1)</u>	<u>Option expiration date</u>
Shane J. Schaffer	2-28-2023	(2)	-	4,500	35.80	2-28-2033
	2-25-2022	(2)	1,544	1,831	27.60	2-25-2032
	12-7-2021	(3)	4,492	4,492	120.00	12-7-2031
Laurie A. Myers	2-28-2023	(2)	-	2,000	35.80	2-28-2033
	2-25-2022	(2)	685	815	27.60	2-25-2032
	12-7-2021	(3)	1,685	1,684	120.00	12-7-2031
Matthew N. Brams	2-28-2023	(2)	-	750	35.80	2-28-2033
	2-25-2022	(2)	287	338	27.60	2-25-2032
	12-7-2021	(3)	113	112	120.00	12-7-2031
Louis G. Van Horn (4)	2-28-2023	(2)	-	2,500	35.80	2-28-2033(4)
	2-25-2022	(2)	654	846	27.60	2-25-2032(4)
	12-7-2021	(3)	1,685	1,684	120.00	12-7-2031(4)
Craig S. Gilgallon (4)	2-28-2023	(2)	-	2,000	35.80	2-28-2033(4)
	2-25-2022	(2)	654	846	27.60	2-25-2032(4)
	12-7-2021	(3)	1,685	1,684	120.00	12-7-2031(4)

- (1) Number of shares of our common stock underlying stock options and option exercise price reflects the 1-for-20 reverse stock split of our issued and outstanding common stock, which became effective on November 30, 2023.
- (2) The option vests as follows: 25% on the one-year anniversary of the date of grant and the remaining shares in substantially equal monthly installments over the 36-month period following the initial vesting date.
- (3) The options vest in four equal annual installments beginning on the one-year anniversary of the grant date.
- (4) Pursuant to the 2021 Plan, Messrs. Van Horn and Gilgallon may exercise vested stock options up until 90 days following their respective termination dates. Upon expiration of such 90-day period all stock options held by Messrs. Van Horn and Gilgallon will be forfeited, including the stock options granted on February 28, 2023. Mr. Gilgallon resigned as an officer of the Company and terminated employment with CTx, effective December 15, 2023. Mr. Gilgallon claims his termination was for “good reason” pursuant to Section 4(e) of his employment agreement with CTx dated September 23, 2021. The Company disputes Mr. Gilgallon’s claim. Subject to execution of a general release in favor of the Company, termination for “good reason” pursuant to Mr. Gilgallon’s employment agreement would entitle him to a lump sum payment equal to his base salary (\$402,800) and target bonus (\$100,500) within 60 days of his termination date. In addition, any of Mr. Gilgallon’s outstanding stock options that would have vested if he had remained employed for an additional four (4) months following his termination date shall become vested and exercisable as of the termination date and all vested stock options would be exercisable for their full term.

Director Compensation

The following table sets forth information regarding compensation awarded to, earned by or paid to each of the non-employee members of our Board for their service as a director during 2023 other than for reimbursement of reasonable expenses incurred in attending meetings of our Board and committees of our Board.

2023 Director Compensation Table

Name	Fees earned or paid in cash \$(1)	Option awards \$(2)	Total (\$)
Scott Applebaum(3)	43,341	12,938	56,279
Jeff Conroy (3)	0	0	0
Patrick Gallagher (3)	46,470	12,938	59,408
Gregg Givens (3)	71,332	12,938	84,270
Curt Medeiros (3)	48,030	12,938	60,968
Peter Werth	35,000	12,938	47,938

- (1) In connection with cost containment measures, the Board deferred the payment of cash fees for the second, third and fourth quarters of 2023.
- (2) The amounts reflect the grant date fair value of the non-qualified stock options awarded on June 15, 2023 to the non-employee directors as of that date in accordance with FASB ASC Topic 718. The fair market value of the option awards was determined using the Black-Scholes Model. The assumptions used to estimate the grant date fair value of the stock option awards in June 2023 were as follows:

Risk-free interest rate 0.04%
Expected term (in years) 5.51
Expected volatility 1.28
Expected dividend yield 0%
Grant date fair value \$17.25

Messrs. Applebaum, Gallagher, Givens and Medeiros may exercise vested stock options up until ninety (90) days following their respective resignation dates. Upon expiration of such 90-day period, all stock options held by Messrs. Applebaum, Gallagher, Givens and Medeiros will be forfeited, including the stock options granted on June 15, 2023. As of December 31, 2023: Mr. Conroy held no stock options; Mr. Applebaum held 1,350 stock options, of which 600 were vested; and Messrs. Gallagher, Givens, Medeiros and Werth held 1,650 stock options, which 675 were vested.

- (3) The following directors resigned from our Board as of the dates indicated: Mr. Applebaum (December 6, 2023); Mr. Conroy (January 5, 2023); Mr. Gallagher (December 12, 2023); Mr. Givens (December 13, 2023); and Mr. Medeiros (December 13, 2023).

2023 Director Compensation Program

Our Compensation Committee and Board approved a director compensation program for our non-employee directors, effective June 15, 2023. This program provides for the following annual cash compensation:

- Director Retainer - \$35,000
- Lead Independent Director Retainer - \$55,000
- Committee Chair Retainer:
 - Audit - \$15,000
 - Compensation - \$10,000
 - Nominating and Corporate Governance - \$8,000
- Committee Member Retainer:
 - Audit - \$7,500
 - Compensation - \$5,000
 - Nominating and Corporate Governance - \$4,000

All cash fees will be paid quarterly in arrears and shall be pro-rated based on the number of whole or partial months served during a calendar year. Although directors are not paid meeting fees, the lead independent director, if any, and the Chairman of the Compensation Committee may determine to pay meeting fees for one or more meetings to the extent the number of Board or committee meetings exceeds the typical number of meetings during the year. We will also reimburse non-employee directors for reasonable expenses incurred in connection with attending board of director and committee meetings. Non-employee directors will receive an annual stock option award, which will vest in a single installment on the first anniversary of the date of grant. Each non-employee director as of June 15, 2023 received a non-qualified stock option award of 750 options on that date. Newly appointed non-employee directors receive an initial non-qualified stock option award of 1,000 options.

Dr. Schaffer, our Chief Executive Officer, serves as Chairman of our Board but does not receive additional compensation for his service as a director. See the Summary Compensation Table for a description of Dr. Schaffer's 2023 compensation.

USE OF PROCEEDS

We estimate that the net proceeds from this offering will be approximately \$8.8 million after deducting placement agent fees and estimated offering expenses payable by us and assuming no sale of any pre-funded warrants and no exercise of the warrants. However, because this is a best efforts offering with no minimum number of securities or amount of proceeds as a condition to closing, the actual offering amount, the placement agent's fees and net proceeds to us are not presently determinable and may be substantially less than the maximum amounts set forth on the cover page of this prospectus, and we may not sell all or any of the securities we are offering. As a result, we may receive significantly less in net proceeds.

We intend to use all of the net proceeds we receive from this offering for continued research and development and commercialization activities of CTx-1301, and for working capital, capital expenditures and general corporate purposes, including investing further in research and development efforts.

Although we currently anticipate that we will use the net proceeds from this offering as described above, there may be circumstances where a reallocation of funds is necessary. The amounts and timing of our actual expenditures will depend upon numerous factors, including our sales and marketing and commercialization efforts, demand for our products, our operating costs and the other factors described under "Risk Factors" in this prospectus herein. Accordingly, our management will have flexibility in applying the net proceeds from this offering. An investor will not have the opportunity to evaluate the economic, financial or other information on which we base our decisions on how to use the proceeds.

Pending our use of the net proceeds from this offering, we intend to invest the net proceeds in a variety of capital preservation investments, including short-term, investment-grade, interest-bearing instruments and United States government securities.

DILUTION

If you invest in our securities in this offering, your ownership interest will be immediately diluted to the extent of the difference between the combined public offering price per share and accompanying warrants and the pro forma as adjusted net tangible book value per share of our common stock immediately after this offering.

As of September 30, 2023, we had a net tangible book deficit of approximately \$(0.1 million), or approximately \$(0.11) per share of common stock. Our net tangible book deficit per share represents our total tangible assets less total liabilities, divided by the number of shares of our common stock outstanding as of September 30, 2023.

After giving effect to the Warrant Exercises and the ATM Sales, our pro forma tangible net book deficit as of September 30, 2023 would have been approximately \$3.0 million, or approximately \$2.14 per share of common stock, an increase of approximately \$2.25 per share of common stock.

After giving effect to the sale of 2,298,850 shares of common stock and accompanying warrants in this offering at an assumed public offering price of \$4.35 per share and accompanying warrants (the last reported sale price of our common stock on Nasdaq on January 24, 2024), and after deducting placement agent fees and estimated offering expenses payable by us, and assuming no sale of any pre-funded warrants in this offering, no exercise of the warrants being offered in this offering, that no value is attributed to such warrants and that such warrants are classified as and accounted for as equity, our pro forma as adjusted net tangible book value as of September 30, 2023 would have been approximately \$11.8 million, or approximately \$3.19 per share of common stock. This amount represents an immediate increase in pro forma as adjusted net tangible book value of \$1.05 per share to our existing stockholders and an immediate dilution of \$1.16 per share to investors participating in this offering. We determine dilution per share to investors participating in this offering by subtracting the pro forma as adjusted net tangible book deficit per share after giving effect to this offering from the assumed public offering price per share and accompanying warrants paid by investors participating in this offering. The following table illustrates this dilution:

Assumed public offering price per share and accompanying warrants		\$ 4.35
Historical net tangible book deficit per share of common stock as of September 30, 2023	\$ (0.11)	
Increase in net tangible book deficit attributable to the Warrant Exercises and the ATM Sales	\$ 2.25	
Pro forma net tangible book deficit after giving effect to the Warrant Exercises and the ATM Sales	\$ 2.14	
Increase in net tangible book deficit per share attributable to this offering	\$ 1.05	
As adjusted net tangible book value per share after this offering		\$ 3.19
Dilution per share to new investors purchasing shares in this offering		\$ 1.16

Each \$1.00 increase or decrease in the assumed public offering price of \$4.35 per share and accompanying warrants, which was the last reported sale price of our common stock on Nasdaq on January 24, 2024, would increase or decrease the pro forma as adjusted net tangible book value per share by \$0.60 per share and the dilution per share to investors participating in this offering by \$0.40 per share, assuming that the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same and after deducting placement agent fees and estimated offering expenses payable by us.

We may also increase or decrease the number of shares we are offering. A 250,000 share increase in the number of shares offered by us, as set forth on the cover page of this prospectus, would increase the pro forma as adjusted net tangible book value per share by approximately \$0.08 and decrease the dilution per share to new investors participating in this offering by approximately \$0.08, based on an assumed public offering price of \$4.35 per share and accompanying warrants, which was the last reported sale price of our common stock on Nasdaq on January 24, 2024, remaining the same and after deducting placement agent fees and estimated offering expenses payable by us. Similarly, a 250,000 share decrease in the number of shares offered by us, as set forth on the cover page of this prospectus, would decrease the pro forma as adjusted net tangible book value per share by approximately \$0.09 and increase the dilution per share to new investors participating in this offering by approximately \$0.09, based on an assumed public offering price of \$4.35 per share, which was the last reported sale price of our common stock Nasdaq on January 24, 2024, remaining the same and after deducting placement agent fees and estimated offering expenses payable by us.

The table and discussion above are based on 868,940 shares of our common stock outstanding as September 30, 2023 (1,413,001 shares of common stock outstanding on a pro forma basis after giving effect to the Warrant Exercises and the ATM Sales), and excludes, as of such date, the following:

- 72,638 shares of our common stock issuable upon exercise of outstanding stock options issued under the 2021 Plan with a weighted average exercise price of \$59.80 per share;
- 66,679 shares of our common stock that are available for future issuance under the 2021 Plan;
- 786,710 shares of common stock issuable upon the exercise of outstanding warrants with a weighted average exercise price of \$46.40 per share; and
- 602,173 shares of common stock (1,028,955 shares on a pro forma basis after giving effect to the Warrant Exercises and the January 2024 Debt Conversion) issuable upon the exercise of outstanding pre-funded warrants with a weighted average exercise price of \$0.002 per share.

The information discussed above is illustrative only and will adjust based on the actual public offering price and other terms of this offering determined at pricing.

DESCRIPTION OF CAPITAL STOCK

The following description summarizes the most important terms of our securities. Because it is only a summary, it does not contain all the information that may be important to you. For a complete description, you should refer to our amended and restated certificate of incorporation and restated bylaws, copies of which are filed as exhibits to the registration statement of which this prospectus forms a part.

Authorized Capitalization

We have 250,000,000 shares of capital stock authorized under our amended and restated certificate of incorporation, consisting of 240,000,000 shares of common stock with a par value of \$0.0001 per share and 10,000,000 shares of preferred stock with a par value of \$0.0001 per share.

As of January 25, 2024, there were 1,450,171 shares of common stock outstanding, and no shares of preferred stock outstanding.

Common Stock

Holders of our common stock are entitled to such dividends as may be declared by our Board out of funds legally available for such purpose. The shares of common stock are neither redeemable nor convertible. Holders of common stock have no preemptive or subscription rights to purchase any of our securities.

Each holder of our common stock is entitled to one vote for each such share outstanding in the holder's name. No holder of common stock is entitled to cumulate votes in voting for directors.

In the event of our liquidation, dissolution or winding up, the holders of our common stock are entitled to receive a pro rata share of our assets, which are legally available for distribution, after payments of all debts and other liabilities. All of the outstanding shares of our common stock are fully paid and non-assessable.

Preferred Stock

Our Board has the authority, without further action by our stockholders, to issue up to 10,000,000 shares of preferred stock in one or more classes or series and to fix the designations, rights, preferences, privileges and restrictions thereof, without further vote or action by the stockholders. These rights, preferences and privileges could include dividend rights, conversion rights, voting rights, terms of redemption, liquidation preferences, sinking fund terms and the number of shares constituting, or the designation of, such class or series, any or all of which may be greater than the rights of common stock. The issuance of our preferred stock could adversely affect the voting power of holders of common stock and the likelihood that such holders will receive dividend payments and payments upon our liquidation. In addition, the issuance of preferred stock could have the effect of delaying, deferring or preventing a change in control of our company or other corporate action. No shares of preferred stock are outstanding, and we have no present plan to issue any shares of preferred stock.

Anti-Takeover Effects of Delaware law and Our Certificate of Incorporation and Bylaws

The provisions of Delaware law, our amended and restated certificate of incorporation and our amended and restated bylaws described below may have the effect of delaying, deferring or discouraging another party from acquiring control of us.

Section 203 of the Delaware General Corporation Law

We are subject to Section 203 of the Delaware General Corporation Law, which prohibits a Delaware corporation from engaging in any business combination with any interested stockholder for a period of three years after the date that such stockholder became an interested stockholder, with the following exceptions:

- before such date, the board of directors of the corporation approved either the business combination or the transaction that resulted in the stockholder becoming an interested stockholder;

- upon completion of the transaction that resulted in the stockholder becoming an interested stockholder, the interested stockholder owned at least 85% of the voting stock of the corporation outstanding at the time the transaction began, excluding for purposes of determining the voting stock outstanding (but not the outstanding voting stock owned by the interested stockholder) those shares owned (i) by persons who are directors and also officers and (ii) employee stock plans in which employee participants do not have the right to determine confidentially whether shares held subject to the plan will be tendered in a tender or exchange offer; or
- on or after such date, the business combination is approved by the board of directors and authorized at an annual or special meeting of the stockholders, and not by written consent, by the affirmative vote of at least 66 2/3% of the outstanding voting stock that is not owned by the interested stockholder.

In general, Section 203 defines business combination to include the following:

- any merger or consolidation involving the corporation and the interested stockholder;
- any sale, transfer, pledge or other disposition of 10% or more of the assets of the corporation involving the interested stockholder;
- subject to certain exceptions, any transaction that results in the issuance or transfer by the corporation of any stock of the corporation to the interested stockholder;
- any transaction involving the corporation that has the effect of increasing the proportionate share of the stock or any class or series of the corporation beneficially owned by the interested stockholder; or
- the receipt by the interested stockholder of the benefit of any loss, advances, guarantees, pledges or other financial benefits by or through the corporation.

In general, Section 203 defines an “interested stockholder” as an entity or person who, together with the person’s affiliates and associates, beneficially owns, or within three years prior to the time of determination of interested stockholder status did own, 15% or more of the outstanding voting stock of the corporation.

Certificate of Incorporation and Bylaws

Our amended and restated certificate of incorporation and amended and restated bylaws provide for:

- classifying our Board into three classes;
- authorizing the issuance of “blank check” preferred stock, the terms of which may be established and shares of which may be issued without stockholder approval;
- limiting the removal of directors by the stockholders;
- requiring a supermajority vote of stockholders to amend our bylaws or certain provisions our certificate of incorporation;
- prohibiting stockholder action by written consent, thereby requiring all stockholder actions to be taken at a meeting of our stockholders;
- eliminating the ability of stockholders to call a special meeting of stockholders;
- establishing advance notice requirements for nominations for election to the board of directors or for proposing matters that can be acted upon at stockholder meetings; and
- establishing Delaware as the exclusive jurisdiction for certain stockholder litigation against us.

Potential Effects of Authorized but Unissued Stock

Pursuant to our amended and restated certificate of incorporation, we have shares of common stock and preferred stock available for future issuance without stockholder approval. We may utilize these additional shares for a variety of corporate purposes, including future public offerings to raise additional capital, to facilitate corporate acquisitions or payment as a dividend on the capital stock.

The existence of unissued and unreserved common stock and preferred stock may enable our Board to issue shares to persons friendly to current management or to issue preferred stock with terms that could render more difficult or discourage a third-party attempt to obtain control of us by means of a merger, tender offer, proxy contest or otherwise, thereby protecting the continuity of our management. In addition, the Board has the discretion to determine designations, rights, preferences, privileges and restrictions, including voting rights, dividend rights, conversion rights, redemption privileges and liquidation preferences of each series of preferred stock, all to the fullest extent permissible under the Delaware General Corporation Law and subject to any limitations set forth in our certificate of incorporation. The purpose of authorizing the Board to issue preferred stock and to determine the rights and preferences applicable to such preferred stock is to eliminate delays associated with a stockholder vote on specific issuances. The issuance of preferred stock, while providing desirable flexibility in connection with possible financings, acquisitions and other corporate purposes, could have the effect of making it more difficult for a third-party to acquire, or could discourage a third-party from acquiring, a majority of our outstanding voting stock.

Choice of Forum

Unless we consent in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware shall be the sole and exclusive forum for any stockholder to bring (i) any derivative action or proceeding brought on behalf of the Company, (ii) any action asserting a claim of breach of fiduciary duty owed by any director, officer or other employee of the Company or the Company's stockholders, (iii) any action asserting a claim against the Company or any director or officer of the Company arising pursuant to, or a claim against the Company or any director or officer of the Company, with respect to the interpretation or application of any provision of the DGCL, our certificate of incorporation or bylaws, or (iv) any action asserting a claim governed by the internal affairs doctrine, except for, in each of the aforementioned actions, any claims to which the Court of Chancery of the State of Delaware determines it lacks jurisdiction. This provision will not apply to claims arising under the Exchange Act, or for any other federal securities laws which provide for exclusive federal jurisdiction. However, the exclusive forum provision provides that unless we consent in writing to the selection of an alternative forum, the federal district courts of the United States of America will be the exclusive forum for the resolution of any complaint asserting a cause of action arising under the Securities Act. Therefore, this provision could apply to a suit that falls within one or more of the categories enumerated in the exclusive forum provision and that asserts claims under the Securities Act, inasmuch as Section 22 of the Securities Act creates concurrent jurisdiction for federal and state courts over all suits brought to enforce any duty or liability created by the Securities Act or the rules and regulations thereunder. There is uncertainty as to whether a court would enforce such an exclusive forum provision with respect to claims under the Securities Act.

We note that there is uncertainty as to whether a court would enforce the provision and that investors cannot waive compliance with the federal securities laws and the rules and regulations thereunder. Although we believe this provision benefits us by providing increased consistency in the application of Delaware law in the types of lawsuits to which it applies, the provision may have the effect of discouraging lawsuits against our directors and officers.

Transfer Agent

The transfer agent of our common stock is Computershare Trust Company, N.A.

DESCRIPTION OF SECURITIES WE ARE OFFERING

We are offering 2,298,850 shares of our common stock at an assumed combined public offering price of \$4.35 per share and accompanying warrants (the last reported sale price of our common stock on Nasdaq on January 24, 2024). We are also offering pre-funded warrants to those purchasers whose purchase of shares of our common stock in this offering would result in the purchaser, together with its affiliates and certain related parties, beneficially owning more than 4.99% (or, at the election of the purchaser, 9.99%) of our outstanding shares of common stock following the consummation of this offering in lieu of the shares of common stocks that would result in such excess ownership. For each pre-funded warrant we sell, the number of shares of common stock we sell in this offering will be decreased on a one-for-one basis. Each share of our common stock or pre-funded warrant is being sold together with one Series A warrant to purchase one share of common stock and one Series B warrant to purchase one-half of a share of common stock. The shares of our common stock and/or pre-funded warrants and related warrants will be issued separately. We are also registering the shares of our common stock issuable from time to time upon exercise of the pre-funded warrants and warrants offered hereby.

Common Stock

The material terms and provisions of our common stock are described under the caption “Description of Capital Stock” in this prospectus.

Warrants

The following summary of certain terms and provisions of the Series A warrants and Series B warrants that are being offered hereby is not complete and is subject to, and qualified in its entirety by, the provisions of warrants, the forms of which are filed as exhibits to the registration statement of which this prospectus forms a part. Prospective investors should carefully review the terms and provisions of the forms of warrant for a complete description of the terms and conditions of the warrants.

Duration and Exercise Price

The Series A warrants will have an exercise price of \$ _____ per share (100% of the combined public offering price per share of common stock and accompanying warrants) and will be exercisable beginning on the effective date of the Warrant Stockholder Approval, provided however, if the Pricing Conditions are met, the Series A warrants will be exercisable upon issuance (the “Initial Exercise Date”). The Series A warrants will expire on the five-year anniversary of the Initial Exercise Date. The Series B warrants will have an exercise price of \$ _____ per share (100% of the combined public offering price per share of common stock and accompanying warrants) and will be exercisable beginning on the Initial Exercise Date. The Series B warrants will expire on the two-year anniversary of the Initial Exercise Date. The exercise price and number of shares of common stock issuable upon exercise of the warrants is subject to appropriate adjustment in the event of stock dividends, stock splits, reorganizations or similar events affecting our common stock and the exercise price. The warrants will be issued separately from the common stock and pre-funded warrants and may be transferred separately immediately thereafter. The warrants will be issued in certificated form only.

Exercisability

The warrants will be exercisable, at the option of each holder, in whole or in part, by delivering to us a duly executed exercise notice accompanied by payment in full for the number of shares of our common stock purchased upon such exercise (except in the case of a cashless exercise as discussed below). A holder (together with its affiliates) may not exercise any portion of such holder’s warrants to the extent that the holder would own more than 4.99% of the outstanding common stock immediately after exercise, except that upon at least 61 days’ prior notice from the holder to us, the holder may increase the amount of ownership of outstanding stock after exercising the holder’s warrants up to 9.99% of the number of shares of our common stock outstanding immediately after giving effect to the exercise, as such percentage ownership is determined in accordance with the terms of the warrants.

Cashless Exercise

If, at the time a holder exercises its warrants, a registration statement registering the issuance or resale of the shares of common stock underlying the warrants under the Securities Act is not then effective or available for the issuance of such shares, then in lieu of making the cash payment otherwise contemplated to be made to us upon such exercise in payment of the aggregate exercise price, the holder may elect instead to receive upon such exercise (either in whole or in part) the net number of shares of common stock determined according to a formula set forth in the warrant.

Fundamental Transactions

In the event of a fundamental transaction, as described in the warrants and generally including any reorganization, recapitalization or reclassification of our shares of common stock, the sale, transfer or other disposition of all or substantially all of our properties or assets, our consolidation or merger with or into another person, the acquisition of more than 50% of the voting power represented by our outstanding shares of capital stock, any person or group becoming the beneficial owner of more than 50% of the voting power represented by our outstanding shares of capital stock, any merger with or into another entity or a tender offer or exchange offer approved by more than 50% of the voting power represented by our outstanding shares of capital, then upon any subsequent exercise of a warrant, the holder will have the right to receive as alternative consideration, for each share of our common stock that would have been issuable upon such exercise immediately prior to the occurrence of such fundamental transaction, the number of shares of common stock of the successor or acquiring corporation or of our company, if it is the surviving corporation, and any additional consideration receivable upon or as a result of such transaction by a holder of the number of shares of our common stock for which the warrant is exercisable immediately prior to such event. Notwithstanding the foregoing, in the event of a fundamental transaction, the holders of the warrants have the right to require us or a successor entity to redeem the warrants for cash in the amount of the Black-Scholes Value (as defined in each warrant) of the unexercised portion of the warrants concurrently with or within 30 days following the consummation of a fundamental transaction.

However, in the event of a fundamental transaction which is not in our control, including a fundamental transaction not approved by our Board, the holders of the warrants will only be entitled to receive from us or our successor entity, as of the date of consummation of such fundamental transaction the same type or form of consideration (and in the same proportion), at the Black Scholes Value of the unexercised portion of the warrant that is being offered and paid to the holders of our common stock in connection with the fundamental transaction, whether that consideration is in the form of cash, stock or any combination of cash and stock, or whether the holders of our common stock are given the choice to receive alternative forms of consideration in connection with the fundamental transaction.

Transferability

Subject to applicable laws, a warrant may be transferred at the option of the holder upon surrender of the warrant to us together with the appropriate instruments of transfer.

Fractional Shares

No fractional shares of common stock will be issued upon the exercise of the warrants. Rather, the number of shares of common stock to be issued will, at our election, either be rounded up to the next whole share or we will pay a cash adjustment in respect of such final fraction in an amount equal to such fraction multiplied by the exercise price.

Trading Market

There is no established trading market for the warrants, and we do not expect such a market to develop. We do not intend to apply to list the warrants on any securities exchange or other nationally recognized trading system. Without an active trading market, the liquidity of the warrants will be extremely limited.

Right as a Stockholder

Except as otherwise provided in the warrants or by virtue of the holder's ownership of shares of our common stock, such holder of warrants does not have the rights or privileges of a holder of our common stock, including any voting rights, until such holder exercises such holder's warrants. The warrants will provide that the holders of the warrants have the right to participate in distributions or dividends paid on our shares of common stock.

Waivers and Amendments

The warrants may be modified or amended or the provisions of such warrants waived with our consent and the consent of the holders of at least a majority of the outstanding warrants.

Pre-Funded Warrants

The following summary of certain terms and provisions of the pre-funded warrants that are being offered hereby is not complete and is subject to, and qualified in its entirety by, the provisions of the pre-funded warrant, the form of which will be filed as an exhibit to the registration statement of which this prospectus forms a part. Prospective investors should carefully review the terms and provisions of the form of pre-funded warrant for a complete description of the terms and conditions of the pre-funded warrants.

Duration and Exercise Price

Each pre-funded warrant offered hereby will have an initial exercise price per share of common stock equal to \$0.0001. The pre-funded warrants will be immediately exercisable and will expire when exercised in full. The exercise price and number of shares of common stock issuable upon exercise is subject to appropriate adjustment in the event of share dividends, share splits, reorganizations or similar events affecting our shares of common stock and the exercise price.

Exercisability

The pre-funded warrants will be exercisable, at the option of each holder, in whole or in part, by delivering to us a duly executed exercise notice accompanied by payment in full for the number of shares of common stock purchased upon such exercise (except in the case of a cashless exercise as discussed below). A holder (together with its affiliates) may not exercise any portion of the pre-funded warrant to the extent that the holder would own more than 4.99% of the outstanding shares of common stock immediately after exercise, except that upon at least 61 days' prior notice from the holder to us, the holder may increase the amount of beneficial ownership of outstanding shares after exercising the holder's pre-funded warrants up to 9.99% of the number of our shares of common stock outstanding immediately after giving effect to the exercise, as such percentage ownership is determined in accordance with the terms of the pre-funded warrants. Purchasers of pre-funded warrants in this offering may also elect prior to the issuance of the pre-funded warrants to have the initial exercise limitation set at 9.99% of our outstanding shares of common stock.

Cashless Exercise

In lieu of making the cash payment otherwise contemplated to be made to us upon such exercise in payment of the aggregate exercise price, the holder may elect instead to receive upon such exercise (either in whole or in part) the net number of shares of common stock determined according to a formula set forth in the pre-funded warrants.

Fractional Shares

No fractional shares of common stock will be issued upon the exercise of the pre-funded warrants. Rather, at the Company's election, the number of shares of common stock to be issued will be rounded up to the next whole share or the Company will pay a cash adjustment in an amount equal to such fraction multiplied by the exercise price.

Transferability

Subject to applicable laws, a pre-funded warrant may be transferred at the option of the holder upon surrender of the pre-funded warrants to us together with the appropriate instruments of transfer.

Trading Market

There is no established trading market for the warrants, and we do not expect such a market to develop. We do not intend to apply to list the pre-funded warrants on any securities exchange or other nationally recognized trading system. Without an active trading market, the liquidity of the pre-funded warrants will be extremely limited.

Right as a Shareholder

Except as otherwise provided in the pre-funded warrants or by virtue of such holder's ownership of shares of common stock, the holders of the pre-funded warrants do not have the rights or privileges of holders of our shares of common stock, including any voting rights, until they exercise their pre-funded warrants. The pre-funded warrants will provide that the holders of the pre-funded warrants have the right to participate in distributions or dividends paid on our shares of common stock.

Fundamental Transaction

In the event of a fundamental transaction, as described in the pre-funded warrants and generally including any reorganization, recapitalization or reclassification of our shares of common stock, the sale, transfer or other disposition of all or substantially all of our properties or assets, our consolidation or merger with or into another person, the acquisition of more than 50% of the voting power represented by our outstanding shares of capital stock, any person or group becoming the beneficial owner of more than 50% of the voting power represented by our outstanding shares of capital stock, any merger with or into another entity or a tender offer or exchange offer approved by more than 50% of the voting power represented by our outstanding shares of capital, then upon any subsequent exercise of a pre-funded warrant, the holder will have the right to receive as alternative consideration, for each share of our common stock that would have been issuable upon such exercise immediately prior to the occurrence of such fundamental transaction, the number of shares of common stock of the successor or acquiring corporation or of our company, if it is the surviving corporation, and any additional consideration receivable upon or as a result of such transaction by a holder of the number of shares of our common stock for which the pre-funded warrant is exercisable immediately prior to such event.

Placement Agent Warrants

We have also agreed to issue to the placement agent (or its designees) placement agent warrants to purchase up to _____ shares of common stock. The placement agent warrants will be exercisable immediately and will have substantially the same terms as the warrants described above, except that the placement agent warrants will have an exercise price of \$ _____ per share (representing 125 % of the offering price per share and accompanying warrants) and a termination date that will be five years from the commencement of the sales pursuant to this offering. See "Plan of Distribution" below.

PLAN OF DISTRIBUTION

Pursuant to an engagement agreement, dated December 27, 2023, we have engaged H.C. Wainwright & Co., LLC, or the placement agent, to act as our exclusive placement agent to solicit offers to purchase the securities offered pursuant to this prospectus on a reasonable best efforts basis. The engagement agreement does not give rise to any commitment by the placement agent to purchase any of our securities, and the placement agent will have no authority to bind us by virtue of the engagement agreement. The placement agent is not purchasing or selling any of the securities offered by us under this prospectus, nor is it required to arrange for the purchase or sale of any specific number or dollar amount of securities. This is a best efforts offering and there is no minimum offering amount required as a condition to the closing of this offering. The placement agent has agreed to use reasonable best efforts to arrange for the sale of the securities by us. Therefore, we may not sell all of the shares of common stock, pre-funded warrants and warrants being offered. The terms of this offering are subject to market conditions and negotiations between us, the placement agent and prospective investors. The placement agent does not guarantee that it will be able to raise new capital in any prospective offering. The placement agent may engage sub-agents or selected dealers to assist with the offering.

Investors purchasing securities offered hereby will have the option to execute a securities purchase agreement with us. In addition to rights and remedies available to all purchasers in this offering under federal securities and state law, the purchasers which enter into a securities purchase agreement will also be able to bring claims of breach of contract against us. The ability to pursue a claim for breach of contract is material to larger purchasers in this offering as a means to enforce the following covenants uniquely available to them under the securities purchase agreement: (i) a covenant to not enter into variable rate financings for a period of one year following the closing of the offering, subject to certain exceptions; and (ii) a covenant to not enter into any equity financings for 60 days from closing of the offering, subject to certain exceptions. The nature of the representations, warranties and covenants in the securities purchase agreements shall include:

- standard issuer representations and warranties on matters such as organization, qualification, authorization, no conflict, no governmental filings required, current in SEC filings, no litigation, labor or other compliance issues, environmental, intellectual property and title matters and compliance with various laws such as the Foreign Corrupt Practices Act; and
- covenants regarding matters such as registration of warrant shares, no integration with other offerings, no stockholder rights plans, no material nonpublic information, use of proceeds, indemnification of purchasers, reservation and listing of shares of common stock, and no subsequent equity sales for 60 days.

We will deliver the securities being issued to the investors upon receipt of investor funds for the purchase of the securities offered pursuant to this prospectus. We expect to deliver the securities being offered pursuant to this prospectus on or about _____, 2024. There is no minimum number of securities or amount of proceeds that is a condition to closing of this offering.

Fees and Expenses

We have agreed to pay the placement agent a total cash fee equal to 8.0% of the aggregate gross proceeds raised in the offering. We will reimburse the placement agent a nonaccountable expense allowance of \$50,000, its legal fees and expenses in an amount up to \$100,000 and its clearing expense in an amount up to \$15,950 in connection with this offering. We estimate the total offering expenses of this offering that will be payable by us, excluding the placement agent fees and expenses, will be approximately \$216,237.

Placement Agent Warrants

In addition, we have agreed to issue to the placement agent or its designees warrants, or the placement agent warrants, to purchase up to 8.0% of the aggregate number of shares of common stock sold in this offering (including shares underlying any pre-funded warrants), at an exercise price equal to 125 % of the public offering price per share and accompanying warrants to be sold in this offering. The placement agent warrants will be exercisable upon issuance and will expire five years from the commencement of sales under this offering.

If at the time of exercise there is no effective registration statement registering, or the prospectus contained therein is not available for the resale of warrant shares by the holders of the placement agent warrants, then the placement agent warrants may be exercised, in whole or in part, at such time by means of a “cashless exercise” in which the holders shall be entitled to receive a number of warrant shares as calculated in the placement agent warrants.

The placement agent warrants provide for customary anti-dilution provisions (for share dividends, splits and recapitalizations and the like) consistent with FINRA Rule 5110.

Tail

In the event that any investors that were introduced to the Company by the placement agent (or with whom the Company had a meeting regarding the offering) during the term of our engagement agreement with the placement agent provide any capital to us in a public or private offering or capital-raising transaction within twenty-four (24) months following the termination or expiration of our engagement agreement with the placement agent, we shall pay the placement agent the cash and warrant compensation provided above on the gross proceeds from such investors. The placement agent will only be entitled to such fee to the extent that the parties are directly introduced to us by the placement agent, in accordance with FINRA Rule 2010.

Right of First Refusal

Subject to consummation of the offering, we have granted a right of first refusal to the placement agent pursuant to which it has the right to act as the sole book-running manager, underwriter or placement agent, as applicable, if we decide to raise capital through a public offering (including an at-the-market facility) or private placement or any other capital-raising financing of equity, equity-linked or debt securities pursuant to which we engage an investment bank or broker/dealer at any time prior to the twenty-four (24) months following the consummation of this offering.

Lock-Up Agreements

Our officers and directors have agreed with the placement agent to be subject to a lock-up period of 90 days following the closing of this offering. This means that, during the applicable lock-up period, such persons may not offer for sale, contract to sell, sell, distribute, grant any option, right or warrant to purchase, pledge, hypothecate or otherwise dispose of, directly or indirectly, any shares of our common stock or any securities convertible into, or exercisable or exchangeable for, shares of our common stock. Certain limited transfers are permitted during the lock-up period if the transferee agrees to these lock-up restrictions. We have also agreed to similar lock-up restrictions on the issuance and sale of our securities for 60 days following the closing of this offering, subject to certain exceptions. The placement agent may, in its sole discretion and without notice, waive the terms of any of these lock-up agreements.

In addition, subject to certain exceptions, we have agreed to not issue any securities that are subject to a price reset based on the trading prices of our common stock or upon a specified or contingent event in the future, or enter into any agreement to issue securities at a future determined price for a period of one year following the closing date of this offering.

Indemnification

We have agreed to indemnify the placement agent against certain liabilities, including certain liabilities under the Securities Act, or to contribute to payments that the placement agent may be required to make in respect of those liabilities.

In addition, we will indemnify the purchasers of securities in this offering against liabilities arising out of or relating to (i) any breach of any of the representations, warranties, covenants or agreements made by us in the securities purchase agreement or related documents or (ii) any action instituted against a purchaser by a third party (other than a third party who is affiliated with such purchaser) with respect to the securities purchase agreement or related documents and the transactions contemplated thereby, subject to certain exceptions

Regulation M Compliance

The placement agent may be deemed to be an underwriter within the meaning of Section 2(a)(11) of the Securities Act, and any fees received by it and any profit realized on the sale of our securities offered hereby by it while acting as principal might be deemed to be underwriting discounts or commissions under the Securities Act. The placement agent will be required to comply with the requirements of the Securities Act and the Exchange Act, including, without limitation, Rule 10b-5 and Regulation M under the Exchange Act. These rules and regulations may limit the timing of purchases and sales of our securities by the placement agent. Under these rules and regulations, the placement agent may not (i) engage in any stabilization activity in connection with our securities; and (ii) bid for or purchase any of our securities or attempt to induce any person to purchase any of our securities, other than as permitted under the Exchange Act, until they have completed their participation in the distribution.

Other Relationships

The placement agent and its affiliates have engaged, and may in the future engage, in investment banking transactions and other commercial dealings in the ordinary course of business with us or our affiliates. The placement agent has received, or may in the future receive, customary fees and commissions for these transactions.

In addition, in the ordinary course of their business activities, the placement agent and its affiliates may make or hold a broad array of investments and actively trade debt and equity securities (or related derivative securities) for their own account and for the accounts of their customers. Such investments and securities activities may involve securities and/or instruments of ours or our affiliates. The placement agent and its affiliates may also make investment recommendations and/or publish or express independent research views in respect of such securities or financial instruments and may hold, or recommend to clients that they acquire, long and/or short positions in such securities and instruments.

The placement agent serves as the placement agent pursuant to our at-the-market offering. In connection with the ATM Agreement, the placement agent is entitled to a commission of 3.0% of the gross proceeds from each sale of shares of our common stock pursuant to such agreement. In connection with entering into the ATM Agreement, we reimbursed the placement agent \$50,000 for its expenses. In addition, we agreed to reimburse the placement agent up to \$2,500 per due diligence update session for expenses of its counsel and any incidental expenses.

The placement agent served as the placement agent in connection with the September 2023 Offering. In connection with the September 2023 Offering, the placement agent received (i) \$280,000.01 in placement agent fees, or 7.0% of the gross proceeds raised in September 2023 Offering, and (ii) reimbursement for its non-accountable expenses in an amount \$50,000, legal fees and expenses in the amount of \$100,000, and clearing expenses in the amount of \$15,950. In addition, on the closing date of the September 2023 Offering, we issued placement agent warrants to purchase an aggregate of 17,316 shares of common stock to the placement agent (or its designees). Such placement agent warrants have an exercise price of \$14.44 and expire September 11, 2028.

Electronic Distribution

A prospectus in electronic format may be made available on a website maintained by the placement agent and the placement agent may distribute prospectuses electronically. Other than the prospectus in electronic format, the information on these websites is not part of this prospectus or the registration statement of which this prospectus forms a part, has not been approved and/or endorsed by us or the placement agent and should not be relied upon by investors.

Transfer Agent

The transfer agent and registrar for our common stock is Computershare Trust Company, N.A.

Nasdaq listing

Our shares of common stock are listed on Nasdaq under the symbol “CING.”

LEGAL MATTERS

The validity of the securities offered by this prospectus will be passed upon for us by Lowenstein Sandler LLP, New York, New York. Ellenoff Grossman & Schole LLP, New York, New York, is counsel for the placement agent in connection with this offering.

EXPERTS

Our consolidated financial statements as of December 31, 2022 and 2021, and for each of the years in the two-year period ended December 31, 2022, have been included herein in reliance upon the report of KPMG LLP, independent registered public accounting firm, appearing elsewhere herein, and upon the authority of said firm as experts in accounting and auditing. The audit report covering the December 31, 2022 and 2021 consolidated financial statements contains an explanatory paragraph that states that our recurring losses from operations and net capital deficiency raise substantial doubt about the entity's ability to continue as a going concern. The consolidated financial statements do not include any adjustments that might result from the outcome of that uncertainty.

WHERE YOU CAN FIND MORE INFORMATION

This prospectus is part of a registration statement we filed with the SEC. This prospectus does not contain all of the information set forth in the registration statement and the exhibits to the registration statement. For further information with respect to us and the securities we are offering under this prospectus, we refer you to the registration statement and the exhibits and schedules filed as a part of the registration statement. You should rely only on the information contained in this prospectus. We have not authorized anyone else to provide you with different information. We are not making an offer of these securities in any jurisdiction where the offer is not permitted. You should assume that the information contained in this prospectus is accurate only as of the date of those respective documents, regardless of the time of delivery of this prospectus or any sale of our securities.

We are subject to the informational requirements of the Exchange Act and in accordance therewith we file annual, quarterly, and other reports, proxy statements and other information with the Commission under the Exchange Act. Such reports, proxy statements and other information, including the Registration Statement, and exhibits and schedules thereto, are available to the public through the Commission's website at www.sec.gov.

We make available free of charge on or through our website our Annual Reports on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K and amendments to those reports filed or furnished pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended, as soon as reasonably practicable after we electronically file such material with or otherwise furnish it to the Commission. The registration statement and our filings are also available on our website www.cingulate.com. The information contained on, or that may be accessed through, our website is not part of, and is not incorporated into, this prospectus.

CINGULATE, INC.
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CINGULATE INC.

CONSOLIDATED FINANCIAL STATEMENTS

Years Ended December 31, 2022 and 2021

(With Report of Independent Registered Public Accounting Firm Thereon)

CINGULATE INC.

Consolidated Financial Statements

As of and for the years ended December 31, 2022 and 2021

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Report of Independent Registered Public Accounting Firm

To the Stockholders and Board of Directors

Cingulate Inc.:

Opinion on the Consolidated Financial Statements

We have audited the accompanying consolidated balance sheets of Cingulate Inc. (the Company) as of December 31, 2022 and 2021, the related consolidated statements of operations and comprehensive loss, stockholders' equity, and cash flows for each of the years in the two-year period ended December 31, 2022, and the related notes (collectively, the consolidated financial statements). In our opinion, the consolidated financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2022 and 2021, and the results of its operations and its cash flows for each of the years in the two-year period ended December 31, 2022, in conformity with U.S. generally accepted accounting principles.

Going Concern

The accompanying consolidated financial statements have been prepared assuming that the Company will continue as a going concern. As discussed in Note 1 to the consolidated financial statements, the Company has incurred losses from operations, has an accumulated deficit, and will need additional funding for operations and development, all of which raise substantial doubt about its ability to continue as a going concern. Management's plans in regard to these matters are also described in Note 1. The consolidated financial statements do not include any adjustments that might result from the outcome of this uncertainty.

Basis for Opinion

These consolidated financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these consolidated financial statements based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) (PCAOB) and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement, whether due to error or fraud. Our audits included performing procedures to assess the risks of material misstatement of the consolidated financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the consolidated financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements. We believe that our audits provide a reasonable basis for our opinion.

/s/ KPMG LLP

We have served as the Company's auditor since 2020.

Kansas City, Missouri

March 10, 2023, except for Note 19, as to which the date is January 12, 2024

Cingulate Inc.
Consolidated Balance Sheets
December 31, 2022 and 2021

	2022	2021
ASSETS		
Current assets:		
Cash and cash equivalents	\$ 5,356,276	\$ 16,492,745
Short-term investments	-	933
Miscellaneous receivables	234,432	690,248
Prepaid expenses and other current assets	2,278,944	1,698,353
Total current assets	7,869,652	18,882,279
Property and equipment, net	2,904,787	3,145,378
Operating lease right-of-use assets	630,618	858,600
Total assets	11,405,057	22,886,257
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	762,357	264,687
Accrued expenses	894,635	601,300
Note payable	5,000,000	-
Finance lease liability, current	16,053	15,096
Operating lease liability, current	339,755	295,595
Total current liabilities	7,012,800	1,176,678
Long-term liabilities:		
Finance lease liability, net of current	21,487	37,534
Operating lease liability, net of current	488,748	828,503
Total long-term liabilities	510,235	866,037
Total liabilities	7,523,035	2,042,715
Stockholders' Equity		
Common Stock, \$0.0001 par value; 240,000,000 shares authorized and 565,470 shares issued and outstanding as of December 31, 2022 and 2021	57	57
Preferred Stock, \$0.0001 par value; 10,000,000 shares authorized and 0 shares issued and outstanding as of December 31, 2022 and 2021	-	-
Additional Paid-in-Capital	73,290,461	72,575,584
Accumulated other comprehensive income	-	165
Accumulated deficit	(69,408,496)	(51,732,264)
Total stockholders' equity	3,882,022	20,843,542
Total liabilities and stockholders' equity	\$ 11,405,057	\$ 22,886,257

See notes to consolidated financial statements.

Cingulate Inc.
Consolidated Statements of Operations and Comprehensive Loss
Years Ended December 31, 2022 and 2021

	2022	2021
Operating expenses:		
Research and development	\$ 8,995,280	\$ 8,410,489
General and administrative	8,506,438	12,268,909
Operating loss	(17,501,718)	(20,679,398)
Interest and other expense, net	(174,514)	(30,593)
Loss before income taxes	(17,676,232)	(20,709,991)
Income tax benefit (expense)	-	-
Net loss and Comprehensive loss	\$ (17,676,232)	\$ (20,709,991)
Net loss per share of common stock, basic and diluted	<u><u>\$ (31.26)</u></u>	<u><u>\$ (55.87)</u></u>
Weighted average number of shares used in computing net loss per share of common stock, basic and diluted	<u><u>565,470</u></u>	<u><u>370,679</u></u>

See notes to consolidated financial statements.

Cingulate Inc.
Consolidated Statements of Stockholders' Equity
Years Ended December 31, 2022 and 2021

	Common Stock		Additional	Members'	Accumulated	Accumulated	Stockholders'
	Shares	Amount	Paid-in- Capital	Capital	Deficit	Other Comprehensive Income	Equity
Balance January 1, 2021				\$ 32,314,543	\$ (31,022,273)	\$ 165	\$ 1,292,435
Members' capital contributions	-	-	-	7,104,957	-	-	7,104,957
Unrealized losses on short-term investments	-	-	-	-	-	-	-
Common stock issued in IPO, net of issuance costs of \$4,627,079	208,333	21	20,374,197	-	-	-	20,374,218
Stock-based compensation expense	-	-	43,835	-	-	-	43,835
Conversion of LLC units to common stock in connection with Reorganization Merger	357,137	36	39,419,464	(39,419,500)	-	-	(0)
Modification of profits interests units in connection with Reorganization Merger	-	-	12,738,088	-	-	-	12,738,088
Net loss	-	-	-	-	(20,709,991)	-	(20,709,991)
Balance December 31, 2021	565,470	57	\$72,575,584	\$ -	\$ (51,732,264)	\$ 165	\$ 20,843,542
Available for sale investments	-	-	-	-	-	(165)	(165)
Stock-based compensation expense	-	-	800,796	-	-	-	800,796
IPO Costs	-	-	(85,919)	-	-	-	(85,919)
Net loss	-	-	-	-	(17,676,232)	-	(17,676,232)
Balance December 31, 2022	565,470	57	\$73,290,461	\$ -	\$ (69,408,496)	\$ -	\$ 3,882,022

See notes to consolidated financial statements

Cingulate Inc.
Consolidated Statements of Cash Flows
Years Ended December 31, 2022 and 2021

	2022	2021
Operating activities:		
Net loss	\$ (17,676,232)	\$ (20,709,991)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation	394,011	708,317
Noncash compensation expense relating to modification of profits interest units	-	12,738,088
Stock-based compensation	800,796	43,835
Changes in operating assets and liabilities:		
Miscellaneous receivables	455,816	(538,476)
Prepaid expenses and other current assets	(580,591)	(1,258,857)
Operating lease right-of-use assets	227,982	100,124
Trade accounts payable and accrued expenses	791,005	(1,324,686)
Current portion of operating lease liability	44,160	61,427
Long-term portion of operating lease liability	(339,755)	(228,938)
Other liabilities	-	(23,615)
Net cash used in operating activities	(15,882,808)	(10,432,772)
Investing activities:		
Purchase of property and equipment	(153,420)	(814,736)
Proceeds from sale of short-term investments	933	-
Other	(165)	-
Net cash used in investing activities	(152,652)	(814,736)
Financing Activities:		
Proceeds from the issuance of common stock in initial public offering, net	-	20,374,218
IPO issuance costs	(85,919)	-
Members' capital contributions	-	7,104,957
Payments on notes payable	-	(500,335)
Proceeds from note payable	5,000,000	-
Principal payments on finance lease obligations	(15,090)	(436,259)
Net cash provided by financing activities	4,898,991	26,542,581
Cash and cash equivalents:		
Net decrease in cash and cash equivalents	(11,136,469)	15,295,073
Cash and cash equivalents at beginning of year	16,492,745	1,197,672
Cash and cash equivalents at end of year	\$ 5,356,276	\$ 16,492,745
Property and equipment accrued but not paid at end of year	\$ -	\$ 279,730
Cash payments:		
Interest paid	\$ 19,000	\$ 114,725

See notes to consolidated financial statements

CINGULATE INC.
Notes to Consolidated Financial Statements
For the Years Ended December 31, 2022 and 2021

(1) Nature of the Business and Liquidity

Organization

Cingulate Inc. is a biopharmaceutical company focused on the development of products utilizing its drug delivery platform technology that enables the formulation and manufacture of once-daily tablets of multi-dose therapies, with an initial focus on the treatment of Attention Deficit/Hyperactivity Disorder (ADHD). The Company is developing two proprietary, first-line stimulant medications, CTx-1301 (dexamethylphenidate) and CTx-1302 (dextroamphetamine), for the treatment of ADHD intended for all patient segments: children, adolescents, and adults. CTx-1301 and CTx-1302 utilize a flexible core tableting technology with target product profile designed to deliver a rapid onset and last the entire active day with a controlled descent of plasma drug level and have favorable tolerability. The Company has initiated Phase 3 clinical trials for CTx-1301, with first patients in the adult dose-optimization study dosed in early 2023. In addition, the Company has a third product to treat anxiety, CTx-2103, in a formulation stage.

On November 14, 2012, Cingulate Therapeutics LLC (CTx), a Delaware limited liability company, was formed. On May 10, 2021, Cingulate Inc. (Cingulate, or the Company), a Delaware corporation and wholly-owned subsidiary of CTx, was formed to serve as a holding company, in anticipation of the Company becoming publicly traded. Through a Reorganization Merger which occurred in the third quarter of 2021, Cingulate effectively acquired CTx and all outstanding units of CTx were converted into shares of Cingulate common stock. CTx remains the entity through which the Company conducts operations.

CTx is the predecessor of Cingulate for financial reporting purposes. The consolidated financial statements and notes for the years ended December 31, 2022 and 2021 represent the full consolidation of Cingulate and its subsidiaries, including CTx and all references to the Company represent this full consolidation.

Liquidity

The Company has incurred losses and negative cash flows from operations since inception. As a pre-revenue entity, the Company is dependent on the ability to raise capital to support operations until such time as the product candidates under development are U.S Food and Drug Administration (FDA) approved, manufactured, commercially available to the marketplace and produce revenues. The IPO, which was completed in December 2021, provided the Company the ability to continue its research and development activities. In addition, the Company received proceeds of \$5.0 million from a promissory note in August 2022 as further described in Note 7. However, the Company will need additional funding for operations and development. In January 2023, the Company entered into an At The Market Offering Agreement (the "ATM Agreement") with H.C. Wainwright & Co., LLC, as sales agent ("Wainwright"), pursuant to which the Company may offer and sell, from time to time through Wainwright, shares of its common stock for aggregate proceeds of up to \$2,650,000. Additionally, management is evaluating various strategies to obtain funding which may include additional offerings of common stock, issuance of debt, or other capital sources, including potential collaborations with other companies or other strategic transactions. Successful implementation of these plans involves both the Company's efforts and factors that are outside its control, such as market factors and FDA approval of product candidates. The Company can give no assurance that its plans will be effectively implemented in such a way that they will sufficiently alleviate or mitigate the conditions and events noted above, which results in substantial doubt about the Company's ability to continue as a going concern within one year after the date that the financial statements are issued. The accompanying consolidated financial statements have been prepared on a going concern basis, which contemplates the realization of assets and satisfaction of liabilities in the normal course of business. The consolidated financial statements do not reflect any adjustments that might result from the outcome of this uncertainty.

(2) Summary of Significant Accounting Policies

(a) Basis of Presentation and Principles of Consolidation

The accompanying consolidated financial statements have been prepared in accordance with U.S. generally accepted accounting principles ("U.S. GAAP"). The consolidated financial statements include the accounts of Cingulate and its wholly-owned subsidiaries. All intercompany accounts and transactions have been eliminated in consolidation.

(b) Use of Estimates

The preparation of consolidated financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, the disclosure of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of expenses during a reporting period. Actual results could differ from estimates.

Estimates and assumptions are periodically reviewed and the effects of revisions are reflected in the consolidated financial statements in the period they are determined to be necessary.

(c) Concentration of Credit Risk

The Company maintains cash equivalent deposits, which at various times throughout the fiscal year exceeded the amounts insured by the Federal Deposit Insurance Corporation limit of \$250,000 (without regard to reconciling items). Management monitors the soundness of these financial institutions and does not believe the Company is subject to any material credit risk relative to the uninsured portion of the deposits.

(d) Cash and Cash Equivalents

Bank demand deposit accounts and short-term liquid investments with an initial maturity of three months or less are considered cash and cash equivalents. Cash and cash equivalents as of December 31, 2022 and 2021 consisted of bank deposits and short-term money market funds. Cash and cash equivalents are carried at cost which is indicative of fair value.

(e) Miscellaneous Receivables

Miscellaneous receivables consist of payroll tax credits generated from the Company's 2021 and 2020 federal income tax returns, which have not yet been received, as well as employee retention tax credits for payroll costs incurred in those years. The Company analyzed IAS 20, *Accounting for Government Grants and Disclosure of Government Assistance*, in accounting for these receivables. As of December 31, 2022 and 2021, the Company determined that there was no allowance necessary relating to these receivables.

(f) Property and Equipment, net

Property and equipment, net are stated at cost, less accumulated depreciation. Maintenance and repairs are charged to expense when incurred. Property and equipment are depreciated using the straight-line method over the estimated remaining useful lives or, for leasehold improvements or leased assets under a financing lease, the life of the lease if shorter.

(g) Leases

The Company is a lessee in two noncancellable operating leases, relating to office space at the Kansas City headquarters office and the New Jersey office and two finance leases, for certain furniture and equipment, one of which the lease term ended on December 31, 2021.

The Company determines if an arrangement is or contains a lease at contract inception. The Company recognizes a ROU asset and a lease liability at the lease commencement date. For operating leases, the lease liability is initially and subsequently measured at the present value of the unpaid lease payments at the lease commencement date. For finance leases, the lease liability is initially measured in the same manner and date as for operating leases and is subsequently measured at amortized cost using the effective-interest method.

The Company determines the discount rate it uses to discount the unpaid lease payments to present value, which requires management judgement. ASC 842 requires a lessee to discount its unpaid lease payments using the interest rate implicit in the lease or, if that rate cannot be readily determined, its incremental borrowing rate. The implicit rate was stated in the agreement for one of the Company's leases; however, for the others, the implicit rate was not determinable as the Company did not have access to the lessor's estimated residual value or the amount of the lessor's deferred initial direct costs. Therefore, the Company uses its incremental borrowing rate as the discount rate for these leases. The Company's incremental borrowing rate for a lease is the rate of interest it would have to pay on a collateralized basis to borrow an amount equal to the lease payments under similar terms. Because the Company has not been able to borrow on a collateralized basis, it has determined a synthetic credit rating based on factors that a credit rating agency would typically analyze when establishing an entity's credit rating. Due to the fact that the Company is a pre-revenue entity, the Company determined that its incremental borrowing rate should be based on the composite CCC and lower bond spreads at the lease measurement dates plus a risk-free rate based on specific lease maturities.

The ROU asset is initially measured at cost, which comprises the initial amount of the lease liability adjusted for lease payments made at or before the lease commencement date, plus any initial direct costs incurred less any lease incentives received.

For operating leases, the ROU asset is subsequently measured throughout the lease term at the carrying amount of the lease liability, plus initial direct costs, plus (minus) any prepaid (accrued) lease payments, less the unamortized balance of cumulative lease incentives received. Lease expense is recognized on a straight-line basis over the lease term which includes the accretion of the lease liability and amortization of the ROU asset.

For finance leases, the ROU asset is subsequently amortized using the straight-line method from the lease commencement date to the earlier of the end of its useful life or the end of the lease term unless the lease transfers ownerships of the underlying asset to the Company or the Company is reasonably certain to exercise an option to purchase the underlying asset. In those cases, the ROU asset is amortized over the useful life of the underlying asset. Amortization of the ROU asset is recognized and presented separately from interest expense on the lease liability.

ROU assets for operating and finance leases are evaluated for impairment losses. Under the long-lived assets impairment guidance in ASC Subtopic 360-10, *Property and Equipment-Overall*. The ROU asset is assessed for impairment with the asset group within which it resides.

Operating lease ROU assets are presented as operating lease right-of-use assets on the consolidated balance sheet. The current and long-term portions of operating lease liabilities are presented separately on the consolidated balance sheet. Finance lease ROU assets are included in property, plant, and equipment. The current and long-term portions of finance lease liabilities are presented separately on the consolidated balance sheet.

(h) Impairment of Long-lived Assets

The Company assesses the carrying value of its long-lived assets, including property and equipment, as well as lease ROU assets, when events or circumstances indicate that the carrying value of such assets may not be recoverable. These events or changes in circumstances may include a significant deterioration of operating results, changes in business plans, or changes in anticipated future cash flows. If an impairment indicator is present, the Company evaluates recoverability by a comparison of the carrying amount of the assets to future undiscounted cash flows expected to be generated by the assets. If the sum of the expected future cash flows is less than the carrying amount, the Company would recognize an impairment loss. An impairment loss would be measured by comparing the amount by which the carrying value exceeds the fair value of the long-lived asset groups. No impairment was recognized during the years ended December 31, 2022 or 2021.

(i) Research and Development

Research and development costs are expensed as incurred and include all direct and indirect costs associated with the development of the Company's product candidates. These expenses include payments to third parties for research, development and manufacturing services, personnel costs and depreciation on manufacturing equipment. At the end of the reporting period, the Company compares payments made to third party service providers to the estimated progress toward completion of the research or development objectives. Such estimates are subject to change as additional information becomes available. Depending on the timing of payments to service providers and the progress that the Company estimates has been made as a result of the service provided, the Company may record net prepaid or accrued expense relating to these costs.

(j) Stock-Based Compensation

The Company measures employee and director stock-based compensation expense for all stock-based awards based on their grant date fair value using the Black-Scholes option-pricing model. For stock-based awards with service conditions, stock-based compensation expense is recognized over the requisite service period using the straight-line method. Forfeitures are recognized as they occur. See additional information in Note 11.

(k) Paycheck Protection Program

On March 27, 2020, the U.S. federal government enacted the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act"). The CARES Act includes a provision for a Paycheck Protection Program ("PPP") administered by the U.S. Small Business Administration ("SBA") and further amended by the Paycheck Protection Program Flexibility Act of 2020 ("PPP Flexibility Act"), which was enacted on June 5, 2020. In April 2020, the Company received a PPP Loan of \$312,500. In February 2021, the Company received a second PPP loan of \$236,457. In accordance with the requirements of the CARES Act, as amended by the PPP Flexibility Act, the PPP Loans may be fully forgiven if proceeds are used to pay eligible payroll costs, rent, mortgage interest and utilities.

In July 2021, the Company was notified that the first PPP loan was forgiven by the SBA and in October 2021, the Company was notified that the second PPP loan was forgiven by the SBA. The Company analyzed IAS 20, *Accounting for Government Grants and Disclosure of Government Assistance*, in accounting for these loans.

(l) Segments

Operating segments are components of a Company for which separate financial information is available and is evaluated regularly by the Company's chief operating decision-maker in deciding how to allocate resources and in assessing performance. The Company currently operates in one operating business segment-drug development.

(m) Income Taxes

Cingulate Inc. is taxed as a C corporation under the Internal Revenue Code. Cingulate Inc. records deferred income taxes to reflect the impact of temporary differences between the recorded amounts of assets and liabilities for financial reporting purposes and such amounts as measured by tax laws and regulations. As of December 31, 2022, CTx is a wholly-owned disregarded entity of Cingulate Inc., and all of the activity for CTx, along with its wholly-owned subsidiary Cingulate Works Inc., is included in the calculation of the current and deferred tax assets and liabilities for Cingulate Inc. The Company determined that it was more likely than not that it would not realize its deferred tax assets, based on historical levels of income and future forecasts of taxable income, among other items, therefore a full valuation allowance is recorded.

The Company has not identified any uncertain tax positions. There have been no interest or penalties recognized in the consolidated financial statements related to uncertain tax positions. In addition, no tax positions exist for which it is reasonably possible that the total amounts of unrecognized tax benefits will significantly increase or decrease within the next 12 months.

The Company files income tax returns in the federal and various state jurisdictions. These federal income taxes are immaterial. The Company is no longer subject to U.S. federal income tax examinations by tax authorities for years before 2019.

(n) Common Stock Purchase Warrants

The Company issued warrants in connection with its IPO in December 2021. These equity instruments were valued at fair value when they were issued. See additional information in Note 12.

(o) Net Loss per Share

Basic net loss per share is computed by dividing the net loss by the weighted average number of common shares outstanding during the period, without consideration to potential dilutive securities. Diluted net loss per common share is computed by dividing the net loss by the sum of the weighted average number of common shares outstanding during the period plus the number of potential dilutive instruments outstanding during the period using the simplified method. Diluted net loss per share is the same as basic net loss per share since the effect of potentially dilutive securities is anti-dilutive.

(3) Prepaid Expenses and Other Current Assets

Prepaid expenses and other current assets consisted of the following at December 31, 2022 and 2021:

	2022	2021
Research and development	\$ 1,377,391	\$ 643,917
Insurance	472,152	761,594
Active pharmaceutical ingredients	209,156	264,361
Deferred capital raise costs	100,339	-
Professional fees	61,524	-
Dues and subscriptions	37,684	-
Other	20,698	28,481
	<u>\$ 2,278,944</u>	<u>\$ 1,698,353</u>

(4) Property and Equipment

Property and equipment, net consists of the following at December 31, 2022 and 2021:

	Estimated Useful Life (in years)	2022	2021
Equipment	2-7	\$ 2,565,997	\$ 2,509,126
Furniture and fixtures	7	145,754	145,754
Computer equipment	5	41,898	41,898
Leasehold improvements	5	471,505	471,505
Construction-in-process- equipment	-	1,739,699	1,643,150
		4,964,853	4,811,433
Less: accumulated depreciation		(2,060,066)	(1,666,055)
		<u>\$ 2,904,787</u>	<u>\$ 3,145,378</u>

Depreciation expense was \$394,011 and \$708,317 for the years ended December 31, 2022 and 2021, respectively

(5) Accrued Expenses

Accrued expenses consisted of the following at December 31, 2022 and 2021:

	2022	2021
Interest	\$ 292,339	\$ -
Professional fees	314,446	71,570
Research and development	-	250,000
CIP- Equipment	-	279,730
Employee bonuses	175,625	-
Other	112,225	-
	<u>\$ 894,635</u>	<u>\$ 601,300</u>

(6) Contingencies

The Company may, from time to time, be subject to legal proceedings and claims arising in the ordinary course of business and otherwise. A substantial legal liability against us could have an adverse effect on our business, financial condition and results of operations.

The Company records legal costs associated with loss contingencies as incurred and establishes reserves when those matters present material loss contingencies that management determines to be both probable and reasonably estimable in accordance with ASC 450, "Contingencies." If a range of loss is estimated, and some amount within that range appears to be a better estimate than any other amount within that range, then that amount is accrued. If no amount within the range can be identified as a better estimate than any other amount, we accrue the minimum amount in the range. These amounts are not reduced by amounts that may be recovered under insurance or claims against third parties, but undiscounted receivables from insurers or other third parties may be accrued separately if recovery is considered probable. Management's judgment is required related to loss contingencies because the outcomes are difficult to predict, and the ultimate resolution may differ from our current analysis. The Company revises accruals in light of new information. While it is not possible to predict the outcome of loss contingencies with certainty, management is of the opinion that adequate provision for potential losses associated with any such matters has been made in the financial statements.

(7) Related Party Notes Payable

On August 10, 2022, the Company received \$5,000,000 of debt financing from Werth Family Investment Associates LLC (WFIA). Peter Werth, manager of WFIA, is a member of the Company's Board of Directors. This promissory note is unsecured with interest accruing at 15% per annum. Outstanding principal and all accrued and unpaid interest are due and payable on August 8, 2025, or 120 days following written demand made by WFIA during the first five business days of a calendar quarter beginning April 1, 2023. The Company may prepay the note, in whole or in part, without premium or penalty; provided, that no amount repaid may be reborrowed. As of December 31, 2022, the entire \$5,000,000 was outstanding on the note.

During the year ended December 31, 2022, the Company recognized \$292,339 of interest expense relating to this note. This interest expense is included in accrued expenses on the consolidated balance sheet at December 31, 2022.

(8) Members' Capital

Prior to the Reorganization Merger, the Company had multiple classes of Members' capital, comprised of Founders Units, Class B, D, E, F and G Preferred Units, and Class C Profits Interests. Class B, E, F and G Preferred Units had similar rights specifically related to cash distributions as a return of invested capital. Class D Preferred Units had all the rights of Founders and the other Classes of Preferred Units plus some additional rights noted below. All classes of Members' capital had voting rights. The Company maintained capital accounts for each Member. 3,243,201 Units of Class F and Class G were issued during the year ended December 31, 2021, prior to the Reorganization Merger.

Class F Preferred Units

The CTx Board authorized 6,984,985 Class F Preferred Units in two tranches; all authorized Class F Units were issued prior to the Reorganization Merger. The Company raised a total of \$11.3 million from issuance of Class F Units. The newly created Class F Units as authorized by the CTx Board and as reflected in the 3rd Amended and Restated Operating Agreement to reflect the creation of the Class F Units became effective on December 14, 2018.

Class G Preferred Units

The CTx Board authorized 12,000,000 Class G Preferred Units; 2,998,184 were issued prior to the Reorganization Merger. The Company raised a total of \$6.7 million from issuance of Class G Units. The newly created Class G Units as authorized by the CTx Board became effective on February 9, 2021.

Distributions, if any, from the Company were to be made first to the holders of Class B, D, E, F and G Preferred Units, pro rata in proportion to each such Member's unreturned capital contributions. Distributions were then to be made to all Members including Founders Units, pro rata in proportion to the number of units held by each Member, with consideration given to the applicable distribution thresholds for Class C Profits Interests at which each was issued and as disclosed in each Profits Interest Unit agreement, as further described in Note 9.

Costs associated with issuance of the Units is immaterial. Pursuant to the terms of the Reorganization Merger, all Units were converted into shares of common stock of Cingulate, as further described in Note 1.

(9) Profits Interest Plan

During 2017, the CTx Board established and adopted the Cingulate Therapeutics LLC Equity Incentive Plan (the "Plan") to provide for issuance of Class C PIU's to employees, CTx Members, Board members and service providers of the Company, as defined in the Plan, eligible to receive PIU's as an incentive under the Plan. PIU's were granted at the discretion of the Board of Managers of the Company and in some cases at the discretion of the Chief Executive Officer of the Company based upon Board authorization. The PIU's were issued at a Distribution Threshold equal to the pre-money fair market valuation of the Company at the date of issuance. The Distribution Threshold was the amount by which a cash distribution, made pro rata to all Members, if any, must have been exceeded in order for a particular PIU holder to participate in the allocated distribution beyond that threshold. Based on the terms of the award, the Distribution Threshold was treated as a performance condition for purposes of financial statement recognition. The PIU's vesting period with respect to the service condition was defined in the PIU award agreement and ranged from 30 days to three years with an average vesting period for all PIU's granted of 107 days. As defined in the Company's Operating Agreement, all PIU's issued under the Plan entitled the holder to participate pro rata in the profits, if any, of the Company over the stated Distribution Threshold, assuming a cash distribution was generally made to all Members, subject to any preference or priorities of the other classes of Units. The Class C PIU's also held voting rights on a one-for-one basis.

Immediately prior to the Reorganization Merger, the Company had granted and issued 8,500,000 and PIU's, net of forfeitures. The Company accounted for these awards under FASB ASC Topic 718, *Compensation – Stock Compensation*, as equity classified awards. No compensation expense was recorded prior to the Reorganization Merger related to the PIU's as the future achievement of the thresholds and targets (the performance condition) to achieve payout was not deemed probable. This assessment was made based on the Company's history of operating losses and continued challenges in raising necessary equity capital to fund operations. In connection with the Reorganization Merger, as further described in Note 1, 8.5 million PIU's were exchanged for 57,900 shares of Cingulate common stock. The exchange of PIU's for common stock created a modification of the terms, character and rights of the PIU's and achievement of performance was considered probable. This resulted in the Company recognizing a noncash modification charge equal to \$12.7 million, which charge was calculated based on the Company's assessment of the fair value of the shares of Cingulate common stock on the date of the modification. \$8.2 million of this charge was recorded to general and administrative expense and \$4.5 million was recorded to research and development expense.

The following summarizes the activity of the Company's Plan:

	Profits Interest Units	Distribution Thresholds (stated in millions)
Outstanding at January 1, 2021	8,142,461	\$25-\$120
Issued	357,539	\$ 160
Forfeited	-	
Converted to common shares upon Reorganization Merger	(8,500,000)	
Outstanding at December 31, 2021	-	

Prior to the Reorganization Merger, the Company had issued all units available under the Plan and all units had vested based upon the vesting period as outlined in the PIU agreement.

PIUs issued and outstanding prior to the Reorganization Merger, which was also the modification date, at the various distribution thresholds were as follows:

Year Granted	Distribution Threshold \$ (in millions):							Total
	\$25	\$40	\$75	\$80	\$90	\$120	\$160	
2017	4,753,000	125,200	-	-	-	-	-	4,878,200
2018	-	661,525	217,725	22,883	-	-	-	902,133
2019	-	-	-	-	377,524	458,924	-	836,448
2020	-	-	-	1,476,126	-	49,554	-	1,525,680
2021	-	-	-	-	-	-	357,539	357,539
Total	<u>4,753,000</u>	<u>786,725</u>	<u>217,725</u>	<u>1,499,009</u>	<u>377,524</u>	<u>508,478</u>	<u>357,539</u>	<u>8,500,000</u>

(10) Stockholders' Equity

The Company has authorized 240,000,000 shares of \$0.0001 par value common stock and 10,000,000 shares of \$0.0001 par value preferred stock at December 31, 2022 and 2021 of which 565,470 shares of common stock were issued and outstanding. The Company has not issued any shares of preferred stock.

357,137 shares of common stock issued and outstanding were issued in connection with the Reorganization Merger to convert Units of CTx outstanding immediately prior to the Reorganization Merger and reflects the stock dividend and reverse stock splits described below.

208,333 shares of common stock were issued at a price to the public of \$120.00 per share in connection with the Company's IPO, which was completed in December 2021. The Company received net proceeds of approximately \$20.4 million, after deducting underwriting discounts and commissions and other offering expenses.

The holders of common stock are entitled to one vote for each share of common stock. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Company, after the payment or provision for payment of all debts and liabilities of the Company, the holders of common stock shall be entitled to share in the remaining assets of the Company available for distribution, if any. Holders of the shares of common stock are entitled to dividends when, as and if declared by the Board of Directors.

Stock Dividend

On September 30, 2021, the Company effected a stock dividend of 0.0015 shares of common stock for each share of common stock outstanding (the "Stock Dividend"), or an aggregate of 22,402 shares of common stock. No fractional shares of common stock were issued in connection with the Stock Dividend, and all such fractional interests were rounded down to the nearest whole number.

No other dividends had been declared as of December 31, 2022.

Reverse Stock Splits

On October 12, 2021, Cingulate effected a reverse stock split of its issued and outstanding shares of common stock at a ratio of 0.0350-for-1, and on November 29, 2021, Cingulate effected a second reverse stock split of its issued and outstanding shares of common stock at a ratio of 0.0321-for-1 (the "Reverse Stock Splits"). No fractional shares of common stock were issued in connection with either of the Reverse Stock Splits, and all such fractional interests were rounded down to the nearest whole number. All share data, per share data and related information for all periods presented in the accompanying consolidated financial statements have been retrospectively adjusted to reflect the effect of the Reverse Stock Splits, and subsequently adjusted for the Reverse Stock Split, described in Note 1.

(11) Stock-Based Compensation

In September 2021, the Company's board of directors and stockholders adopted the 2021 Equity Incentive Plan (the "2021 Plan"), which provides for the grant of incentive stock options and non-qualified stock options to purchase shares of the Company's common stock, stock appreciation rights, restricted stock units, restricted or unrestricted shares of common stock, performance shares, performance units, incentive bonus awards, other stock-based awards and other cash-based awards. No awards may be made under the 2021 Plan on or after September 24, 2031, but the 2021 Plan will continue thereafter while previously granted awards remain outstanding.

The maximum number of shares of common stock available for issuance in connection with options and other awards granted under the 2021 Plan is 96,391 and as of December 31, 2022, 53,340 shares of common stock were available for issuance under the 2021 Plan. The number of shares of common stock available for issuance under the 2021 Plan will automatically increase on January 1st of each year until the expiration of the 2021 Plan, in an amount equal to 5% percent of the total number of shares of our common stock outstanding on December 31st of the preceding calendar year, on a fully diluted basis, unless the board of directors takes action prior thereto to provide that there will not be an increase in the share reserve for such year or that the increase in the share reserve for such year will be of a lesser number of shares of common stock than would otherwise occur. The shares of common stock underlying any awards that are forfeited, cancelled, held back upon exercise or settlement of an award to satisfy the exercise price or tax withholding, repurchased or are otherwise terminated by the Company under the 2021 Plan will be added back to the shares of common stock available for issuance under the 2021 Plan.

The Company recorded stock-based compensation expense of \$800,796 and \$43,835 during the years ended December 31, 2022 and 2021, relating to options issued. As of December 31, 2022 and 2021, there was \$2,089,509 and \$2,637,895 of unrecognized compensation cost related to nonvested share-based compensation arrangements granted under the 2021 Plan, which is expected to be recognized over the next one to four years.

A summary of option activity under the Plan during the years ended December 31, 2022 and 2021 was as follows:

	Shares	Weighted-Average Exercise Price	Weighted-Average Remaining Contractual Term	Aggregate Intrinsic Value
Outstanding at January 1, 2021	-			
Grants	26,173	\$ 120.00	9.94 years	-
Exercised	-			
Forfeitures or expirations	-			
Outstanding at December 31, 2021	26,173			
Grants	20,882	\$ 34.40	9.17 years	
Exercised	-			
Forfeitures or expirations	(3,995)	\$ 69.20		
Outstanding at December 31, 2022	43,060	\$ 83.20	9.05 years	-
Vested and expected to vest at December 31, 2022	43,060			
Exercisable at December 31, 2022	8,451			

The Company's stock options issued qualify for equity accounting treatment under ASC 718 and are measured at fair value as of their grant date accordingly. The fair value of the options were estimated using a Black-Scholes model. The assumptions that the Company used to estimate the grant-date fair value of stock options granted to employees and directors were as follows, shown on a weighted average basis for the respective years ended:

	2022	2021
Risk-free interest rate	1.889%	0.012%
Expected term (in years)	5.98	6.25
Expected volatility	1.126	1.134
Expected dividend yield	0%	0%

Risk-Free Interest Rate: The Company based the risk-free interest rate over the expected term of the options based on the constant maturity of U.S. Treasury securities with similar maturities as of the date of grant.

Expected Term: The expected term represents the period that the options granted are expected to be outstanding and is determined using the simplified method (based on the mid-point between the vesting dates and the end of the contractual term.)

Expected Volatility: The Company uses an average historical stock price volatility of comparable public companies within the biotechnology and pharmaceutical industry that were deemed to be representative of future stock price trends as the Company does not have sufficient trading history for its common stock. The Company will continue to apply this process until a sufficient amount of historical information regarding volatility of its own stock price becomes available.

Expected Dividend Yield: The Company has not paid and does not anticipate paying any dividends in the near future. Therefore, the expected dividend yield was zero.

The grant-date fair value of options granted during the year ended December 31, 2022 ranged from \$17.20 to \$23.20 and was \$102.60 for options granted during the year ended December 31, 2021.

The aggregate intrinsic value of stock options is calculated as the difference between the exercise price of the stock options and the fair value of the Company's common stock. Because there were no stock options with exercise prices lower than the fair value of the Company's common stock, the aggregate intrinsic value is zero as of December 31, 2022 and 2021.

(12) Common Stock Purchase Warrants

For each of the 208,333 shares of common stock issued in connection with the Company's IPO, one common stock purchase warrant was also issued and included in the unit price of \$120.00. These warrants were immediately separable and tradeable. Although the underwriters did not exercise their fifteen percent over-allotment option to purchase additional shares of common stock, they did purchase 31,250 additional common stock purchase warrants for \$.001 per warrant less underwriting discounts and commissions. These 239,583 common stock purchase warrants have an exercise price of \$120.00 per share and provide for a cashless exercise feature if there is no effective registration statement or current prospectus for the issuance of common stock upon exercise of the warrants. These warrants are exercisable from December 10, 2021 through December 10, 2026. Upon the termination date, these warrants will be automatically exercised via a cashless exercise.

In addition to the common stock purchase warrants noted above, the Company issued 10,417 common stock purchase warrants to the underwriters for the Company's IPO pursuant to the underwriting agreement. These warrants have an exercise price of \$150.00 per share and provide for a cashless exercise feature. These warrants are exercisable from June 7, 2022 through December 10, 2026.

The warrants were valued using a Black-Scholes model with a risk-free rate of .0082%, a term of 5.0 years, and a volatility of 1.24. The estimated volatility of the Company's common stock at the date of measurement is based on an average historical stock price volatility of comparable public companies within the biotechnology and pharmaceutical industry that were deemed to be representative of future stock price trends as the Company does not have sufficient trading history for its common stock. The risk-free rate is based on the expected term of the warrants based on the constant maturity of U.S. Treasury securities with similar maturities as of the date of grant. The expected term has been estimated using the contractual term of the warrants.

The following table summarizes the Company's outstanding warrants as of December 31, 2022 and 2021:

	Number of Warrants	Exercise Price	Grant Date Fair Value per Warrant	Grant Date Fair Value Total
Balance- January 1, 2021				
Underwritten public offering	239,583	\$ 120.00	\$ 95.4000993	\$ 22,856,242
Issuance of underwriter warrants	10,417	\$ 150.00	\$ 92.7968705	966,665
Balance- December 31, 2021	<u>250,000</u>			<u>\$ 23,822,907</u>

There were no warrants issued or exercised in 2022.

The Company has accounted for these warrants as equity-classified instruments under ASC Subtopic 815-40, *Accounting for Convertible Instruments and Contracts in an Entity's Own Equity*, as they are indexed to the Company's common stock, and they meet all other conditions for equity classification. The gross proceeds of the IPO transaction was allocated to the common stock and common stock purchase warrants using the relative fair value method shown as follows. Fair value of the warrants was recorded to Additional Paid-in- Capital on the Company's balance sheet.

	Fair Value	Percent of Total Fair Value	Amount Allocated
Common Stock	\$ 25,000,000	51.2%	\$ 12,800,000
Common Stock Purchase Warrants	23,822,907	48.8%	12,200,000
Total	<u>\$ 48,822,907</u>	<u>100%</u>	<u>\$ 25,000,000</u>

(13) Income Taxes

Cingulate Inc. is taxed as a C corporation under the Internal Revenue Code. Cingulate Inc. records deferred income taxes to reflect the impact of temporary differences between the recorded amounts of assets and liabilities for financial reporting purposes and such amounts as measured by tax laws and regulations. CTx is a wholly-owned disregarded entity of Cingulate Inc., and all of the activity for CTx, along with its wholly-owned subsidiary Cingulate Works Inc., is included in the calculation of the current and deferred tax assets and liabilities for Cingulate Inc. No deferred income tax benefit or expense was recorded as of December 31, 2022 or December 31, 2021, for federal or state income taxes.

Income tax expense differed from the expected expense computed by applying U.S. Federal income tax rate for the respective years ended as follows:

	December 31, 2022	December 31, 2021
Federal income tax benefit at statutory rate	\$ (3,712,008)	\$ (563,519)
State income tax benefit	(977,496)	(148,393)
Permanent differences	11,935	44,804
Change in valuation allowance	4,733,324	713,701
Other	(55,755)	(46,593)
Total income tax expense	<u>\$ -</u>	<u>\$ -</u>

Evaluating the need for, and amount of, a valuation allowance for deferred tax assets often requires significant judgment and extensive analysis of all available evidence on a jurisdiction-by-jurisdiction basis. Such judgments require the Company to interpret existing tax law and other published guidance as applied to its circumstances. As part of this assessment, the Company considers both positive and negative evidence about its profitability and tax situation. A valuation allowance is provided if, based on available evidence, it is more likely than not that all or some portion of a deferred tax asset will not be realized. The Company determined that it was more likely than not that it would not realize its deferred tax assets, based on historical levels of income and future forecasts of taxable income, among other items. The Company recorded a valuation allowance of its net deferred tax assets totaling \$5,580,595 and \$847,269, respectively, at December 31, 2022 and 2021, which was recorded as a component of income tax expense on the accompanying consolidated statements of operations and other comprehensive loss.

The Company files income tax returns in the U.S. federal and various state jurisdictions. The Companies are not subject to U.S. federal and state income tax examinations by tax authorities for years before 2018.

The Company follows the provisions of FASB ASC 740, *Income Taxes*, to evaluate uncertain tax positions. This topic prescribes a recognition threshold and measurement attribute for the financial statement recognition and measurement of a tax position taken or expected to be taken in a tax return. The Company has not identified any material uncertain tax positions requiring recognition in the consolidated financial statements as of December 31, 2022.

	<u>December 31, 2022</u>	<u>December 31, 2021</u>
Deferred income tax assets:		
Current:		
Research and development costs	\$ 343,087	\$ -
Other	59,018	4,050
Non-current:		
Net operating losses	3,381,215	1,201,974
Research and development costs	1,762,716	-
Unvested stock options	204,380	11,835
Patents	92,417	90,480
Right-of-use assets	63,563	49,606
Gross deferred income tax assets	<u>5,906,396</u>	<u>1,357,945</u>
Less: valuation allowance	<u>(5,580,595)</u>	<u>(847,269)</u>
Net deferred income tax asset	<u>325,801</u>	<u>510,676</u>
Deferred income tax liabilities:		
Current:		
Accrual to cash	(11,228)	(105,075)
Non-current		
Property and equipment	<u>(314,573)</u>	<u>(405,601)</u>
Gross deferred income tax liabilities	<u>(325,801)</u>	<u>(510,676)</u>
Net deferred tax asset (liability)	<u>\$ -</u>	<u>\$ -</u>

(14) Leases

In June, 2019, the Company executed a lease, which included expansion and renovation of previously leased space for the Kansas City office. The term of the lease is for a period of five years and commenced on May 1, 2020, the date of receipt of a Certificate of Occupancy for the expanded and newly renovated space. Under this lease, total rent ranges from \$30,453 to \$33,145 per month. This lease provided for a lease incentive by the lessor of tenant improvements totaling \$201,600.

The Company leases office space for its New Jersey based employees from a related party, as further described in Note 17. The base rent for this lease was \$3,000 per month in 2022 and 2021. The lease was entered into in January 2021, for a three-year term.

In 2018, the Company entered into an 18-month operating lease for manufacturing equipment. Interim rent was incurred during installation of the equipment with the lease commencing in June 2018. Monthly lease payments for this leased equipment were \$61,786. In December 2019, this lease was extended for a period of twenty-four months with a monthly lease payment of \$37,072. At this date, this lease was modified for accounting purposes and its classification was assessed as a financing type lease as management determined the lessor to have no alternative future use of the leased asset. The ROU asset associated with the leased machinery was amortized over the lease term. In December 2021, the end of the lease term, the Company entered into a purchase agreement with the lessor to purchase the manufacturing equipment.

In April 2020, the Company entered into a 60-month lease agreement for office furniture under a lease classified as a financing lease as title of the furniture transfers to the Company at the end of the lease term. Monthly lease payments are \$1,491. The leased furniture is amortized on a straight-line basis over 7 years. The imputed interest rate relating to the lease obligation is 6.12% and the maturity date is March 2025.

The components of lease cost for the years ended December 31, 2022 and 2021 were as follows:

	2022	2021
Operating lease cost	\$ 338,787	\$ 338,787
Finance lease cost:		
Amortization of right-of-use assets	10,990	409,927
Interest on lease liabilities	2,804	26,504
Total finance lease cost	13,794	436,431
Total lease cost	\$ 352,581	\$ 775,218

Amounts reported in the consolidated balance sheets as of December 31, 2022 and 2021 were as follows:

	2022	2021
Operating Leases:		
Operating lease right-of-use assets	\$ 630,618	\$ 858,600
Other current liabilities	339,755	295,595
Operating lease liabilities	488,748	828,503
Total operating lease liabilities	828,503	1,124,098
Finance leases:		
Property and equipment	76,928	76,928
Accumulated amortization	(44,988)	(29,602)
Property and equipment, net	31,940	47,326
Current installments of obligations under finance leases	16,053	15,096
Long-term portion of obligations under finance leases	21,487	37,534
Total finance lease liabilities	\$ 37,540	\$ 52,630

Other information relating to leases as of December 31, 2022 and 2021 was as follows:

	2022	2021
Supplemental cash flow information:		
Cash paid for amounts included in the measurement of lease liabilities:		
Operating cash flow from operating leases	\$ 36,000	\$ 433,172
Operating cash flow from finance leases	3,698	26,504
Financing cash flow from finance leases	15,090	436,259
Reductions to ROU assets resulting from reductions to lease obligations:		
Operating leases	227,981	196,245
Finance leases	10,990	409,927
Weighted average remaining lease term:		
Operating leases	25 months	39 months
Finance leases	27 months	39 months
Weighted average discount rate:		
Operating leases	11.62%	11.57%
Finance leases	6.12%	6.12%

Maturities of lease liabilities under noncancellable leases as of December 31, 2022 are as follows:

	Operating leases	Finance leases
2023	414,800	17,900
2024	393,005	17,900
2025	132,580	4,475
Thereafter	-	-
Total undiscounted lease payments	940,385	40,275
Less imputed interest	(111,882)	(2,742)
Total lease liabilities	\$ 828,503	\$ 37,533

(15) Net Loss Per Share

The following table sets forth the computation of the basic and diluted net loss per share for the year ended December 31, 2022 and 2021:

	2022	2021
Numerator:		
Net loss	\$ (17,676,232)	\$ (20,709,991)
Denominator:		
Weighted average common shares outstanding	565,470	370,679
Net loss per share, basic and diluted	\$ (31.26)	\$ (55.87)

Potentially dilutive securities that were not included in the diluted per share calculations because they would be anti-dilutive were as follows:

	2022	2021
Stock options issued under the 2021 Equity Incentive Plan	43,060	26,164
Common stock purchase warrants outstanding	250,000	250,000
Total	293,060	276,164

(16) License Agreement

CTx has a licensing agreement with a company related to the patents and licensed know-how for use in the development of CTx-1301, CTx-1302, and CTx-2103. CTx will pay the following upon the occurrence of the following milestone events:

- \$250,000 Milestone payment upon dosing of first patient in a Phase 3 Clinical Trial for each product in the field, payable on a per product basis.
- \$250,000 Milestone payment upon licensee filing of new drug application for each product in the field, payable on a per product basis.
- \$250,000 Milestone payment for CTx-1301 and CTx-1302 and \$500,000 Milestone payment for CTx-2103 upon receipt of first marketing approval from the FDA, payable on a per product basis.
- \$250,000 Milestone payment for CTx-2103 upon receipt of first marketing approval from the EMA (European Medicines Agency)

The Company accrued the \$250,000 milestone for CTx-1301 related to dosing of first patient in a Phase 3 Clinical Trial as of December 31, 2021 as management deemed this milestone to be probable. The Company has not recorded any expense relating to the other milestones for either product as it has not deemed them probable of occurring as of December 31, 2022.

(17) Related Party Transactions

A member of the Company's Board of Directors, is a Senior Managing Director at Laidlaw & Company (UK) Ltd. Laidlaw & Company (UK) Ltd. acted as co-lead book-running underwriter for the Company's IPO. The discounts and commissions paid to Laidlaw & Company (UK) Ltd. in connection with the IPO were approximately \$500,000 in 2021.

The general counsel of the Company is a partner with a law firm providing office facilities space that is leased by the Company. Rental expense incurred by the Company to the law firm was \$36,000 in 2022 and 2021. As of December 31, 2022 and 2021, the Company owed \$0 on this lease.

A member of the Company's Board of Directors, Peter Werth, is the manager of WFIA, the entity which provided \$5.0 million in debt financing to the Company in 2022 as described in Note 7. Interest expense of \$292,339 was recognized during the year ended December 31, 2022. The full principal balance of \$5.0 million and accrued interest of \$292,339 was outstanding as of December 31, 2022.

(18) Subsequent Events

Management evaluated events that occurred subsequent to December 31, 2022 through March 10, 2023, which is the date the financial statements were issued.

In January 2023, the Company entered into an At The Market Offering Agreement (the "ATM Agreement") with H.C. Wainwright & Co., LLC, as sales agent ("Wainwright"), pursuant to which the Company may offer and sell, from time to time through Wainwright, shares of its common stock for aggregate proceeds of up to \$2,650,000 (the "Shares"). The Company will pay Wainwright a commission of 3% of the aggregate gross proceeds from each sale of Common Stock. As of the date of this filing, the Company has not made any sales pursuant to the ATM Agreement.

On March 7, 2023, the Company entered into a Joint Commercialization Agreement with Indegene, Inc., pursuant to which Indegene will provide commercialization services for CTx-1301 upon the Company's request. The parties will enter into statements of work that will set forth, among other things, the services to be performed by Indegene, the deliverables for such services, and the fees to be paid by the Company.

(19) Reverse Stock Split

On November 30, 2023, the Company completed a one-for-twenty reverse stock split (the "Reverse Stock Split"), which reduced the number of shares of the Company's common stock that were issued and outstanding immediately prior to the effectiveness of the Reverse Stock Split. The number of shares of the Company's authorized common stock was not affected by the Reverse Stock Split and the par value of the Company's common stock remained unchanged at \$0.0001 per share. No fractional shares were issued in connection with the Reverse Stock Split. Except where disclosed, all amounts related to number of shares and per share amounts have been retroactively restated in these financial statements.

PART I — FINANCIAL INFORMATION

Item 1. Financial Statements.

Cingulate Inc. Consolidated Balance Sheets (unaudited)

	September 30, 2023	December 31, 2022
ASSETS		
Current assets:		
Cash and cash equivalents	\$ 1,986,313	\$ 5,356,276
Miscellaneous receivables	5,836	234,432
Prepaid expenses and other current assets	910,286	2,278,944
Total current assets	2,902,435	7,869,652
Property and equipment, net	2,531,330	2,904,787
Operating lease right-of-use assets	436,493	630,618
Total assets	5,870,258	11,405,057
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	1,670,436	762,357
Accrued expenses	692,008	894,635
Note payable	3,000,000	5,000,000
Finance lease liability, current	16,805	16,053
Operating lease liability, current	353,183	339,755
Total current liabilities	5,732,432	7,012,800
Long-term liabilities:		
Finance lease liability, net of current	8,792	21,487
Operating lease liability, net of current	225,368	488,748
Total long-term liabilities	234,160	510,235
Total liabilities	5,966,592	7,523,035
Stockholders' Equity		
Common Stock, \$0.0001 par value; 240,000,000 shares authorized and 868,940 and 565,470 shares issued and outstanding as of September 30, 2023 and December 31, 2022, respectively	88	57
Preferred Stock, \$0.0001 par value; 10,000,000 shares authorized and 0 shares issued and outstanding as of September 30, 2023 and December 31, 2022	-	-
Additional Paid-in-Capital	85,912,324	73,290,461
Accumulated deficit	(86,008,746)	(69,408,496)
Total stockholders' equity	(96,334)	3,882,022
Total liabilities and stockholders' equity	\$ 5,870,258	\$ 11,405,057

See notes to consolidated financial statements.

Cingulate Inc.
Consolidated Statements of Operations and Comprehensive Loss (unaudited)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2023	2022	2023	2022
Operating expenses:				
Research and development	\$ 3,923,852	\$ 2,123,114	\$ 10,508,395	\$ 7,063,626
General and administrative	1,825,822	1,845,248	5,453,643	5,963,067
Operating loss	(5,749,674)	(3,968,362)	(15,962,038)	(13,026,693)
Interest and other income (expense), net	(229,380)	(58,885)	(638,212)	(44,512)
Loss before income taxes	(5,979,054)	(4,027,247)	(16,600,250)	(13,071,205)
Income tax benefit (expense)	-	-	-	-
Net loss	(5,979,054)	(4,027,247)	(16,600,250)	(13,071,205)
Other comprehensive income (loss):				
Change in unrealized loss on short-term investments	-	3,249	-	(166)
Comprehensive loss	\$ (5,979,054)	\$ (4,023,998)	\$ (16,600,250)	\$ (13,071,371)
Net loss per share of common stock, basic and diluted	\$ (6.05)	\$ (7.12)	\$ (23.24)	\$ (23.12)
Weighted average number of shares used in computing net loss per share of common stock, basic and diluted	988,333	565,470	714,397	565,470

See notes to consolidated financial statements.

Cingulate Inc.
Consolidated Statements of Stockholders' Equity (unaudited)

	Common Stock		Additional	Accumulated	Accumulated	Stockholders'
	Shares	Amount	Paid-in-Capital	Deficit	Other Comprehensive Income	Equity
Balance January 1, 2022	565,470	57	\$ 72,575,584	\$ (51,732,264)	\$ 165	\$ 20,843,542
Activity for the three months to March 31, 2022:						
Unrealized losses on available for sale investments	-	-	-	-	(2,948)	(2,948)
Stock-based compensation expense	-	-	181,518	-	-	181,518
Net loss	-	-	-	(5,003,511)	-	(5,003,511)
Balance March 31, 2022	565,470	\$ 57	\$ 72,757,102	\$ (56,735,775)	\$ (2,783)	\$ 16,018,601
Activity for the three months to June 30, 2022:						
Unrealized losses on available for sale investments	-	-	-	-	(466)	(466)
Stock-based compensation expense	-	-	207,186	-	-	207,186
Net loss	-	-	-	(4,040,447)	-	(4,040,447)
Balance June 30, 2022	565,470	\$ 57	\$ 72,964,288	\$ (60,776,222)	\$ (3,249)	\$ 12,184,874
Activity for the three months to September 30, 2022:						
Unrealized losses on available for sale investments	-	-	-	-	3,249	3,249
Stock-based compensation expense	-	-	205,656	-	-	205,656
Net loss	-	-	-	(4,027,247)	-	(4,027,247)
Balance September 30, 2022	565,470	\$ 57	\$ 73,169,944	\$ (64,803,469)	\$ -	\$ 8,366,532
Balance January 1, 2023	565,470	57	73,290,461	\$ (69,408,496)	\$ -	\$ 3,882,022
Activity for the three months to March 31, 2023:						
Stock-based compensation expense	-	-	204,479	-	-	204,479
Net loss	-	-	-	(4,004,887)	-	(4,004,887)
Balance March 31, 2023	565,470	\$ 57	\$ 73,494,940	\$ (73,413,383)	\$ -	\$ 81,614
Activity for the three months to June 30, 2023:						
Issuance of common stock in connection with At the Market Offering and Purchase Agreement, net of fees	37,369	4	218,794	-	-	218,798
Stock-based compensation expense	-	-	217,376	-	-	217,376
Net loss	-	-	-	(6,616,309)	-	(6,616,309)
Balance June 30, 2023	602,839	\$ 61	\$ 73,931,110	\$ (80,029,692)	\$ -	\$ (6,098,521)
Activity for the three months to September 30, 2023:						
Issuance of common stock in connection with At the Market Offering and Purchase Agreement, net of fees	88,943	9	1,621,930	-	-	1,621,939
Issuance of common stock in connection with private placement with WFIA	91,158	9	999,991	-	-	1,000,000
Issuance of common stock and pre-funded warrants sold for cash in public offering, net of fees	86,000	9	3,310,542	-	-	3,310,551
Issuance of pre-funded warrants in connection with the conversion of related party note payable	-	-	3,949,765	-	-	3,949,765
Capital contribution in connection with conversion of related party note payable	-	-	1,862,735	-	-	1,862,735
Stock-based compensation expense	-	-	236,251	-	-	236,251
Net loss	-	-	-	(5,979,054)	-	(5,979,054)
Balance September 30, 2023	868,940	\$ 88	\$ 85,912,324	\$ (86,008,746)	\$ -	\$ (96,334)

See notes to consolidated financial statements

Cingulate Inc.
Consolidated Statements of Cash Flows (unaudited)

	Nine Months Ended September 30,	
	2023	2022
Operating activities:		
Net loss	\$ (16,600,250)	\$ (13,071,205)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation	410,593	304,287
Stock-based compensation	658,106	594,360
Changes in operating assets and liabilities:		
Miscellaneous receivables	228,596	642,899
Prepaid expenses and other current assets	1,368,658	(293,140)
Operating lease right-of-use assets	194,125	167,828
Trade accounts payable and accrued expenses	1,517,952	197,462
Other current liabilities	13,428	31,147
Operating lease liabilities	(263,380)	(249,952)
Net cash used in operating activities	(12,472,172)	(11,676,314)
Investing activities:		
Purchase of property and equipment	(37,136)	(10,400)
Proceeds from sale of short-term investments	-	933
Other	-	(165)
Net cash used in investing activities	(37,136)	(9,632)
Financing Activities:		
Proceeds from issuance of common stock and pre-funded common stock purchase warrants, net of fees	6,151,288	-
Proceeds from note payable	3,000,000	5,000,000
Principal payments on finance lease obligations	(11,943)	(11,229)
Net cash provided by financing activities	9,139,345	4,988,771
Cash and cash equivalents:		
Net decrease in cash and cash equivalents	(3,369,963)	(6,697,175)
Cash and cash equivalents at beginning of year	5,356,276	16,492,745
Cash and cash equivalents at end of period	\$ 1,986,313	\$ 9,795,570
Cash payments:		
Interest paid	\$ 10,266	\$ 10,291

See notes to consolidated financial statements

GINGULATE INC.

Notes to Consolidated Financial Statements (unaudited)

(1) Nature of the Business and Liquidity

Organization

Cingulate Inc. is a biopharmaceutical company focused on the development of products utilizing its drug delivery platform technology that enables the formulation and manufacture of once-daily tablets of multi-dose therapies, with an initial focus on the treatment of Attention Deficit/Hyperactivity Disorder (ADHD). The Company is developing two proprietary, first-line stimulant medications, CTx-1301 (dexamethylphenidate) and CTx-1302 (dextroamphetamine), for the treatment of ADHD intended for all patient segments: children, adolescents, and adults. CTx-1301 and CTx-1302 utilize a flexible core tableting technology with target product profile designed to deliver a rapid onset and last the entire active day with a controlled descent of plasma drug level and have favorable tolerability. The Company completed its first Phase 3 clinical trial for CTx-1301 with two additional Phase 3 trials in process. In addition, the Company has a third product to treat anxiety, CTx-2103, in a formulation stage.

On November 14, 2012, Cingulate Therapeutics LLC (CTx), a Delaware limited liability company, was formed. On May 10, 2021, Cingulate Inc. (Cingulate, or the Company), a Delaware corporation and wholly-owned subsidiary of CTx, was formed to serve as a holding company, in anticipation of the Company becoming publicly traded. Through a Reorganization Merger which occurred in the third quarter of 2021, Cingulate effectively acquired CTx and all outstanding units of CTx were converted into shares of Cingulate common stock. CTx remains the entity through which the Company conducts operations.

The consolidated financial statements and notes for the periods ended September 30, 2023 and 2022, represent the full consolidation of Cingulate and its subsidiaries, including CTx and all references to the Company represent this full consolidation.

Liquidity

The Company has incurred losses and negative cash flows from operations since inception. As a pre-revenue entity, the Company is dependent on the ability to raise capital to support operations until such time as the product candidates under development are U.S Food and Drug Administration (FDA) approved, manufactured, commercially available to the marketplace and produce revenues. The initial public offering, which was completed in December 2021, provided approximately \$20.4 million in net proceeds. In addition, the Company received proceeds of \$5.0 million from a promissory note in August 2022 and an additional \$3.0 million when the promissory note was amended and restated in May 2023, a portion of which was subsequently converted to equity, as further described in Note 7. The Company has utilized its At-the-Market Agreement with H.C. Wainwright and Purchase Agreement with Lincoln Park Capital LLC in 2023, providing a total of approximately \$2.1 million in net proceeds through September 30, 2023. Additional capital raised in the third quarter of 2023 included the issuance and sale of common stock and pre-funded common stock warrants in connection with a public offering, which provided approximately \$3.3 million in net proceeds and the issuance and sale of common stock in connection with a \$1 million private placement, as further described in Note 9. However, the Company will need additional funding for operations and development. Management is evaluating various strategies to obtain additional funding, which may include additional offerings of equity, issuance of debt, or other capital sources, including potential collaborations with other companies or other strategic transactions. Successful implementation of these plans involves both the Company's efforts and factors that are outside its control, such as market factors and FDA approval of product candidates. The Company can give no assurance that its plans will be effectively implemented in such a way that they will sufficiently alleviate or mitigate the conditions and events noted above, which results in substantial doubt about the Company's ability to continue as a going concern within one year after the date that the financial statements are issued. The accompanying consolidated financial statements have been prepared on a going concern basis, which contemplates the realization of assets and satisfaction of liabilities in the normal course of business. The consolidated financial statements do not reflect any adjustments that might result from the outcome of this uncertainty.

(2) Summary of Significant Accounting Policies

(a) Basis of Presentation and Principles of Consolidation

The accompanying consolidated financial statements have been prepared in accordance with U.S. generally accepted accounting principles (U.S. GAAP). The consolidated financial statements include the accounts of Cingulate and its wholly-owned subsidiaries. All intercompany accounts and transactions have been eliminated in consolidation.

(b) Unaudited Interim Financial Information

The accompanying consolidated balance sheet as of September 30, 2023, the consolidated statements of operations and comprehensive loss for the three and nine-month periods ended September 30, 2023 and 2022, the consolidated statements of stockholders' equity for the three and nine-month periods ended September 30, 2023 and 2022, the consolidated statements of cash flows for the nine-month periods ended September 30, 2023 and 2022, and the related interim disclosures are unaudited. These unaudited consolidated financial statements include all adjustments necessary, consisting of only normal recurring adjustments, to fairly state the financial position and the results of operations and cash flows for interim periods in accordance with U.S. GAAP. Interim period results are not necessarily indicative of results of operations or cash flows for a full year or any subsequent interim period. The accompanying consolidated financial statements should be read in conjunction with the Company's audited consolidated financial statements and the notes thereto as of and for the year ended December 31, 2022.

(c) Concentration of Credit Risk

The Company maintains cash equivalent deposits, which at various times throughout the fiscal year exceeded the amounts insured by the Federal Deposit Insurance Corporation limit of \$250,000 (without regard to reconciling items). Management monitors the soundness of these financial institutions and does not believe the Company is subject to any material credit risk relative to the uninsured portion of the deposits.

(d) Miscellaneous Receivables

Miscellaneous receivables as of December 31, 2022, primarily consisted of employee retention tax credits for payroll costs incurred in 2020 and research and development tax credits. The Company analogized to IAS 20, *Accounting for Government Grants and Disclosure of Government Assistance*, in accounting for these receivables. As of December 31, 2022, the Company determined that there was no allowance necessary relating to these receivables. As of September 30, 2023, all employee retention tax credits and research and development tax credits had been collected.

(e) Impairment of Long-lived Assets

The Company assesses the carrying value of its long-lived assets, including property and equipment, as well as lease right of use (ROU) assets, when events or circumstances indicate that the carrying value of such assets may not be recoverable. These events or changes in circumstances may include a significant deterioration of operating results, changes in business plans, or changes in anticipated future cash flows. If an impairment indicator is present, the Company evaluates recoverability by a comparison of the carrying amount of the assets to future undiscounted cash flows expected to be generated by the assets. If the sum of the expected future cash flows is less than the carrying amount, the Company would recognize an impairment loss. An impairment loss would be measured by comparing the amount by which the carrying value exceeds the fair value of the long-lived asset groups. No impairment was recognized during the three or nine-month periods ended September 30, 2023 or 2022.

(f) Stock-Based Compensation

The Company measures employee and director stock-based compensation expense for all stock-based awards based on their grant date fair value using the Black-Scholes option-pricing model. For stock-based awards with service conditions, stock-based compensation expense is recognized over the requisite service period using the straight-line method. Forfeitures are recognized as they occur. See additional information in Note 11.

(3) Prepaid Expenses

Prepaid expenses consisted of the following at September 30, 2023 and December 31, 2022:

	September 30, 2023	December 31, 2022
Research and development	\$ 413,431	\$ 1,377,391
Insurance	339,676	472,152
Active pharmaceutical ingredients	77,422	209,156
Deferred capital raise costs	-	100,339
Professional fees	20,775	61,524
Dues and subscriptions	38,284	37,684
Other	20,698	20,698
	<u>\$ 910,286</u>	<u>\$ 2,278,944</u>

(4) Property and Equipment

Property and equipment, net consisted of the following at September 30, 2023 and December 31, 2022:

	Estimated Useful Life (in years)	September 30, 2023	December 31, 2022
Equipment	2-7	\$ 4,342,832	\$ 2,565,997
Furniture and fixtures	7	145,754	145,754
Computer equipment	5	41,898	41,898
Leasehold improvements	5	471,505	471,505
Construction-in-process- equipment	-	-	1,739,699
		<u>5,001,989</u>	<u>4,964,853</u>
Less: accumulated depreciation		<u>(2,470,659)</u>	<u>(2,060,066)</u>
		<u>\$ 2,531,330</u>	<u>\$ 2,904,787</u>

Depreciation expense for the nine months ended September 30, 2023 was \$410,593 and for the nine months ended September 30, 2022 was \$304,287. Depreciation expense for the three months ended September 30, 2023 was \$154,663 and for the three months ended September 30, 2022 was \$101,429.

(5) Accrued Expenses

Accrued expenses consisted of the following at September 30, 2023 and December 31, 2022:

	September 30, 2023	December 31, 2022
Interest	\$ 157,339	\$ 292,339
Research and development	253,524	-
Professional fees	15,000	314,446
Employee bonuses	175,625	175,625
Active pharmaceutical ingredients	62,393	-
Other	28,127	112,225
	<u>\$ 692,008</u>	<u>\$ 894,635</u>

(6) Contingencies

The Company may, from time to time, be subject to legal proceedings and claims arising in the ordinary course of business and otherwise. A substantial legal liability against us could have an adverse effect on our business, financial condition and results of operations.

The Company records legal costs associated with loss contingencies as incurred and establishes reserves when those matters present material loss contingencies that management determines to be both probable and reasonably estimable in accordance with ASC 450, *Contingencies*. If a range of loss is estimated, and some amount within that range appears to be a better estimate than any other amount within that range, then that amount is accrued. If no amount within the range can be identified as a better estimate than any other amount, we accrue the minimum amount in the range. These amounts are not reduced by amounts that may be recovered under insurance or claims against third parties, but undiscounted receivables from insurers or other third parties may be accrued separately if recovery is considered probable. Management's judgment is required related to loss contingencies because the outcomes are difficult to predict, and the ultimate resolution may differ from our current analysis. The Company revises accruals in light of new information. While it is not possible to predict the outcome of loss contingencies with certainty, management is of the opinion that adequate provision for potential losses associated with any such matters has been made in the consolidated financial statements.

(7) Related Party Note Payable

In August 2022, the Company received \$5.0 million of debt financing from Werth Family Investment Associates LLC (WFIA). Peter Werth, manager of WFIA, is a member of the Company's Board of Directors. The promissory note, dated August 9, 2023, is unsecured with interest accruing at 15% per annum. In May 2023, the Company received an additional \$3.0 million of debt financing from WFIA by amending and restating the note to increase the principal amount to \$8.0 million. All other terms of the note remained the same.

On September 8, 2023, the Company and CTx entered into a Note Conversion Agreement (Note Conversion Agreement) with WFIA, pursuant to which WFIA agreed to convert the original principal amount of \$5.0 million under the note plus all accrued interest on the original principal, or \$5,812,500, by issuing pre-funded warrants (WFIA Pre-Funded Warrants) to purchase 341,912 shares of the Company's common stock at a conversion price per WFIA Pre-Funded Warrant of \$17.00. The closing price of the Company's common stock on Nasdaq on September 8, 2023, was \$11.55 per share. The WFIA Pre-Funded Warrants have no expiration date and are exercisable immediately at an exercise price of \$0.002 per share, to the extent that after giving effect to such exercise, WFIA and its affiliates would beneficially own, for purposes of Section 13(d) of the Securities Exchange Act of 1934, as amended (Exchange Act), no more than 19.99% of the outstanding shares of common stock of the Company.

The Company considered ASC 470-60, *Troubled Debt Restructurings by Debtors*, in accounting for this debt conversion. The difference between the fair value of the pre-funded warrants issued and the carrying value of the debt settled in the transaction was recognized as a capital contribution of \$1,862,735 in the Statement of Stockholders' Equity.

The remaining outstanding principal of the note of \$3.0 million and all accrued and unpaid interest are due and payable on August 8, 2025, or 120 days following written demand made by WFIA during the first five business days of a calendar quarter. WFIA has not demanded payment on the note. The Company may prepay the note, in whole or in part, without premium or penalty; provided, that no amount repaid may be reborrowed.

As of September 30, 2023 and December 31, 2022, \$3.0 million and \$5.0 million, respectively, of principal were outstanding on the note.

During the three months ended September 30, 2023, the Company recognized \$237,500 of interest expense relating to the note. During the nine months ended September 30, 2023, the Company recognized \$677,500 of interest expense relating to the note. All interest expense relating to the note is included in accrued expenses on the consolidated balance sheet.

(8) Stockholders' Equity

The Company has authorized 240,000,000 shares of \$0.0001 par value common stock and 10,000,000 shares of \$0.0001 par value preferred stock at September 30, 2023, and December 31, 2022, of which 868,940 and 565,470 shares of common stock were issued and outstanding as of September 30, 2023 and December 31, 2022, respectively. The Company has not issued any shares of preferred stock.

The holders of common stock are entitled to one vote for each share of common stock. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Company, after the payment or provision for payment of all debts and liabilities of the Company, the holders of common stock shall be entitled to share in the remaining assets of the Company available for distribution, if any. Holders of the shares of common stock are entitled to dividends when, as and if declared by the Board of Directors.

(9) Sale of Securities

Private Placement

On August 11, 2023, the Company entered into a Securities Purchase Agreement with WFIA and issued, in a private placement priced at the market under Nasdaq rules 91,158 shares of its common stock at a purchase price per share of \$10.97, resulting in gross proceeds to the Company of approximately \$1.0 million. Peter Werth, a member of the Company's Board of Directors, is the manager of WFIA.

Public Offering

On September 11, 2023, the Company entered into a Securities Purchase Agreement with an institutional investor (September 2023 Offering) pursuant to which the Company issued 86,000 shares of its common stock at a combined price of \$11.55 per share and accompanying Series A and Series B warrants and pre-funded warrants (Pre-Funded Warrants) to purchase up to an aggregate of 260,261 shares of its common stock at a combined purchase price of \$11.55 per Pre-Funded Warrant, and accompanying Series A and Series B warrants, which represents the public offering price for the common stock less the \$0.002 per share exercise price per share for each Pre-Funded Warrant. The September 2023 Offering closed on September 13, 2023. The Pre-Funded Warrants are exercisable at any time after the date of issuance and have no expiration date. The holder of Pre-Funded Warrants may not exercise the warrants if the holder, together with its affiliates, would beneficially own more than 4.99% (or, at the election of the holder, 9.99%) of the number of shares of common stock outstanding immediately after giving effect to such exercise. The September 2023 Offering resulted in gross proceeds to the Company of \$3,999,480 before deducting \$688,929 of placement agent fees and other offering expenses. See Note 10 for a description of Series A and Series B warrants issued in the September 2023 Offering.

Conversion of Related Party Note

On September 8, 2023, the Company issued WFIA Pre-Funded Warrants to purchase 341,912 shares of the Company's common stock as part of the Note Conversion Agreement, as described in Note 7. The WFIA Pre-Funded Warrants have no expiration date and are exercisable immediately at an exercise price of \$0.002 per share, to the extent that after giving effect to such exercise, WFIA and its affiliates would beneficially own, for purposes of Section 13(d) of the Exchange Act, no more than 19.99% of the outstanding shares of common stock of the Company.

Purchase Agreement with Lincoln Park

In April 2023, the Company entered into a purchase agreement (LP Purchase Agreement) and a registration rights agreement (Registration Rights Agreement) with Lincoln Park Capital Fund, LLC (Lincoln Park). Pursuant to the terms of the LP Purchase Agreement, Lincoln Park has agreed to purchase from the Company up to \$12 million of the Company's common stock subject to certain limitations and satisfaction of the conditions set forth in the LP Purchase Agreement. Pursuant to the terms of the Registration Rights Agreement, the Company filed with the SEC a registration statement to register for resale under the Securities Act 225,000 shares of common stock that have been or may be issued to Lincoln Park under the LP Purchase Agreement.

Pursuant to the terms of the LP Purchase Agreement, at the time the Company signed the LP Purchase Agreement and the Registration Rights Agreement, the Company issued 18,402 shares of common stock to Lincoln Park as consideration for its commitment to purchase shares of common stock under the LP Purchase Agreement. The commitment shares were valued at \$400,409 and recorded as an addition to equity for the issuance of the common stock and treated as a reduction to equity as a cost of capital to be raised under the LP Purchase Agreement.

During the quarter ended September 30, 2023, the Company sold 12,000 shares of common stock under the LP Purchase Agreement, for net proceeds of \$196,167. During the nine months ended September 30, 2023, the Company sold 25,500 shares of common stock under the LP Purchase Agreement, for net proceeds of \$450,427.

At the Market Offering

In January 2023, the Company entered into an At The Market Offering Agreement (ATM Agreement) with H.C. Wainwright & Co., LLC (HCW) pursuant to which the Company may issue and sell, from time to time, shares of the Company's common stock having an aggregate offering price of up to \$4.97 million in at-the-market offerings sales. HCW will act as sales agent and will be paid a 3% commission on each sale under the ATM Agreement. The Company's common stock will be sold at prevailing market prices at the time of the sale, and, as a result, prices will vary. During the quarter ended September 30, 2023, the Company sold 76,943 shares of common stock under the ATM Agreement, for net proceeds of \$1,595,429. During the nine months ended September 30, 2023, the Company sold 82,410 shares of common stock under the ATM agreement, for net proceeds of \$1,696,407.

(10) Common Stock Purchase Warrants

In addition to the 346,261 shares of common stock and Pre-Funded Warrants issued in the September 2023 Offering, the Company issued Series A warrants to purchase up to 346,261 shares of common stock and Series B warrants to purchase up to 173,131 shares of common stock. The Series A and Series B warrants have an exercise price of \$11.55 per share and are exercisable on the effective date of stockholder approval of the shares issuable pursuant to the warrants. The Series A warrants have a five-year term and the Series B warrants have a two-year term from the initial exercise date.

The Company evaluated the Pre-Funded Warrants for liability or equity classification in accordance with the provisions of ASC Topic 480, *Distinguishing Liabilities from Equity*, and ASC Topic 815, *Derivatives and Hedging*, and determined that equity treatment was appropriate. The Company valued the Pre-Funded Warrants to purchase 260,260 shares of common stock based on their issuance date fair value of \$3,006,008. As of September 30, 2023, none of the Pre-Funded Warrants had been exercised.

In connection with the September 2023 Offering, the Company issued placement agent warrants to purchase up to 17,313 shares of common stock. The placement agent warrants have an exercise price of \$11.55 per share. These warrants have a five-year term ending September 11, 2028.

The Series A, Series B and placement agent warrants issued in the September 2023 Offering were valued using a Black-Scholes model with a risk-free rate of 4.5%-5.3%, the respective terms of five and two years, and a volatility of 1.29-1.32. The estimated volatility of the Company's common stock at the date of measurement is based on an average historical stock price volatility of comparable public companies within the biotechnology and pharmaceutical industry that were deemed to be representative of future stock price trends as the Company does not have sufficient trading history for its common stock. The risk-free rate is based on the expected term of the warrants based on the constant maturity of U.S. Treasury securities with similar maturities as of the date of grant. The expected term has been estimated using the contractual term of the warrants.

The following table summarizes the Company's outstanding common stock purchase warrants as of September 30, 2023:

	Number of Warrants	Exercise Price	Issuance Date Fair Value per Warrant	Issuance Date Fair Value Total
December 2021 Initial Public Offering	239,584	\$ 120.00	\$ 95.3997	\$ 22,856,242
December 2021 Underwriter Warrants	10,417	\$ 150.00	\$ 92.7969	966,665
September 2023 WFIA Pre-funded Warrants	341,912	\$ 0.0001	\$ 16.9999	5,812,500
September 2023 Public Offering Pre-funded Warrants	260,261	\$ 0.0001	\$ 11.5460	3,006,008
September 2023 Public Offering Series A Warrants	346,261	\$ 11.60	\$ 10.7999	3,739,612
September 2023 Public Offering Series B Warrants	173,131	\$ 11.60	\$ 8.3999	1,454,294
September 2023 Placement Agent Warrants	17,313	\$ 14.40	\$ 10.6000	183,518
Balance- September 30, 2023	<u>1,388,879</u>			<u>\$ 38,018,839</u>

The Company has accounted for these warrants as equity-classified instruments under ASU 2020-06, *Accounting for Convertible Instruments and Contracts in an Entity's Own Equity*, as they are indexed to the Company's common stock, and they meet all other conditions as defined in ASU 2020-06 for equity classification. The gross proceeds of the September 2023 public offering was allocated to the common stock/pre-funded warrants and common stock purchase warrants using the relative fair value method shown as follows. Fair value of the warrants was recorded to Additional Paid-in-Capital on the Company's balance sheet.

	Fair Value	Percent of Total Fair Value	Amount Allocated
Common Stock and Pre-Funded Warrants	\$ 3,999,480	42.7%	\$ 1,707,778
Series A, B and Placement Agent Warrants	5,377,424	57.3%	2,291,702
Total	<u>\$ 9,376,904</u>	<u>100%</u>	<u>\$ 3,999,480</u>

(11) Stock-Based Compensation

In September 2021, the Company's board of directors and stockholders adopted the 2021 Equity Incentive Plan (2021 Plan), which provides for the grant of incentive stock options and non-qualified stock options to purchase shares of the Company's common stock, stock appreciation rights, restricted stock units, restricted or unrestricted shares of common stock, performance shares, performance units, incentive bonus awards, other stock-based awards and other cash-based awards. No awards may be made under the 2021 Plan on or after September 24, 2031, but the 2021 Plan will continue thereafter while previously granted awards remain outstanding.

The maximum number of shares of common stock available for issuance in connection with options and other awards granted under the 2021 Plan is 139,116 and as of September 30, 2023, 66,678 shares of common stock were available for issuance under the 2021 Plan. The number of shares of common stock available for issuance under the 2021 Plan will automatically increase on January 1st of each year until the expiration of the 2021 Plan, in an amount equal to 5% percent of the total number of shares of our common stock outstanding on December 31st of the preceding calendar year, on a fully diluted basis, unless the board of directors takes action prior thereto to provide that there will not be an increase in the share reserve for such year or that the increase in the share reserve for such year will be of a lesser number of shares of common stock than would otherwise occur. The shares of common stock underlying any awards that are forfeited, cancelled, held back upon exercise or settlement of an award to satisfy the exercise price or tax withholding, repurchased or are otherwise terminated by the Company under the 2021 Plan will be added back to the shares of common stock available for issuance under the 2021 Plan.

The Company recorded stock-based compensation expense of \$658,105 during the nine months ended September 30, 2023 and \$594,363 during the nine months ended September 30, 2022. The Company recorded stock-based compensation expense of \$236,251 during the three months ended September 30, 2023 and \$205,656 during the three months ended September 30, 2022, all relating to options issued during 2021, 2022 and 2023. As of September 30, 2023 and December 31, 2022, there was \$2,133,614 and \$2,637,895, respectively, of unrecognized compensation cost related to nonvested share-based compensation arrangements granted under the 2021 Plan, which is expected to be recognized over the next one to four years.

A summary of option activity under the Plan during the three and nine months ended September 30, 2023 is as follows:

	<u>Shares</u>	<u>Weighted-Average Exercise Price</u>	<u>Weighted-Average Remaining Contractual Term (years)</u>	<u>Aggregate Intrinsic Value</u>
Outstanding at January 1, 2023	43,060			
Granted	19,225	\$ 35.00	9.92	
Exercised	-			
Forfeitures or expirations	(281)			
Outstanding at March 31, 2023	62,004	\$ 63.20	9.01	
Granted	6,388	\$ 19.20	9.98	
Exercised	-			
Forfeitures or expirations	(899)			
Outstanding at June 30, 2023	67,493	\$ 63.20	9.01	
Granted	5,204	\$ 12.20	9.89	
Exercised	-			
Forfeitures or expirations	(50)			
Outstanding at September 30, 2023	<u>72,647</u>	\$ 59.80	8.84	\$ 10,607
Vested and expected to vest at September 30, 2023	<u>72,647</u>			
Exercisable at September 30, 2023	<u>16,816</u>			

The Company's stock options issued qualify for equity accounting treatment under ASC 718, *Compensation- Stock Compensation*, and are measured at fair value as of their grant date accordingly. The fair value of the options were estimated using a Black-Scholes model. The assumptions that the Company used to estimate the grant-date fair value of stock options granted to employees during the nine-month period ending September 30, 2023, were as follows, shown on a weighted average basis:

Risk-free interest rate	4.073%
Expected term (in years)	5.9
Expected volatility	1.27
Expected dividend yield	0%

Risk-Free Interest Rate: The Company based the risk-free interest rate over the expected term of the options based on the constant maturity of U.S. Treasury securities with similar maturities as of the date of grant.

Expected Term: The expected term represents the period that the options granted are expected to be outstanding and is determined using the simplified method (based on the mid-point between the vesting dates and the end of the contractual term.)

Expected Volatility: The Company uses an average historical stock price volatility of comparable public companies within the biotechnology and pharmaceutical industry that were deemed to be representative of future stock price trends as the Company does not have sufficient trading history for its common stock. The Company will continue to apply this process until a sufficient amount of historical information regarding volatility of its own stock price becomes available.

Expected Dividend Yield: The Company has not paid and does not anticipate paying any dividends in the near future. Therefore, the expected dividend yield was zero.

The grant-date fair value of options granted during the three months ended September 30, 2023, ranged from \$10.20 to \$12.80, and the grant date fair value of the options granted during the nine months ended September 30, 2023, ranged from \$10.20 to \$30.60.

The aggregate intrinsic value of stock options is calculated as the difference between the exercise price of the stock options and the fair value of the Company's common stock. The fair value per share of common stock was \$14.20 as of September 30, 2023, and \$20.00 as of December 31, 2022, based upon the closing price of our common stock on the Nasdaq Capital Market on those dates.

(12) Income Taxes

Cingulate Inc. is taxed as a C corporation under the Internal Revenue Code. Cingulate Inc. records deferred income taxes to reflect the impact of temporary differences between the recorded amounts of assets and liabilities for financial reporting purposes and such amounts as measured by tax laws and regulations. CTx is a wholly-owned disregarded entity of Cingulate Inc., and all of the activity for CTx, along with its wholly-owned subsidiary Cingulate Works Inc., is included in the calculation of the current and deferred tax assets and liabilities for Cingulate Inc. No deferred income tax benefit or expense was recorded for the three-month periods ended September 30, 2023, and 2022 or the nine-month periods ended September 30, 2023 and 2022, for federal or state income taxes.

Income tax expense differed from the expected expense computed by applying the U.S. Federal income tax rate as follows:

	Three Months Ended September 30, 2023	Three Months Ended September 30, 2022	Nine Months Ended September 30, 2023	Nine Months Ended September 30, 2022
Federal income tax benefit at statutory rate	\$ (1,255,601)	\$ (845,722)	\$ (3,486,052)	\$ (2,733,779)
State income tax benefit	(330,642)	(222,707)	(917,994)	(719,896)
Permanent differences	6,154	3,157	14,457	11,920
Change in valuation allowance	2,218,188	1,132,895	5,089,875	3,572,189
Prior period adjustment to actual	(620,630)	-	(620,630)	-
Other	(17,469)	(67,623)	(79,656)	(130,434)
Total income tax expense	\$ -	\$ -	\$ -	\$ -

Evaluating the need for, and amount of, a valuation allowance for deferred tax assets often requires significant judgment and extensive analysis of all available evidence on a jurisdiction-by-jurisdiction basis. Such judgments require the Company to interpret existing tax law and other published guidance as applied to its circumstances. As part of this assessment, the Company considers both positive and negative evidence about its profitability and tax situation. A valuation allowance is provided if, based on available evidence, it is more likely than not that all or some portion of a deferred tax asset will not be realized. The Company determined that it was more likely than not that it would not realize its deferred tax assets, based on historical levels of income and future forecasts of taxable income, among other items. The Company recorded a valuation allowance of its net deferred tax assets totaling \$10,988,821 as of September 30, 2023, and \$5,580,595 at December 31, 2022, which was recorded as a component of income tax expense on the accompanying consolidated statements of operations and other comprehensive loss.

The Company files income tax returns in the U.S. federal and various state jurisdictions. The Company is not subject to U.S. federal and state income tax examinations by tax authorities for years before 2018.

The Company follows the provisions of FASB ASC 740, *Income Taxes*, to evaluate uncertain tax positions. This topic prescribes a recognition threshold and measurement attribute for the financial statement recognition and measurement of a tax position taken or expected to be taken in a tax return. The Company has not identified any material uncertain tax positions requiring recognition in the consolidated financial statements as of September 30, 2023 or December 31, 2022.

	September 30, 2023	December 31, 2022
Deferred income tax assets:		
Current:		
Research and development costs	\$ 723,577	\$ 343,087
Other	59,126	59,018
Non-current:		
Net operating losses	5,862,906	3,381,215
Research and development costs	3,645,038	1,762,716
Research and development tax credit	756,122	-
Unvested stock options	405,739	204,380
Patents	99,118	92,417
Right-of-use assets	45,265	63,563
Gross deferred income tax assets	11,596,891	5,906,396
Less: valuation allowance	(10,988,821)	(5,580,595)
Net deferred income tax asset	608,070	325,801
Deferred income tax liabilities:		
Current:		
Accrual to cash	-	(11,228)
Non-current		
Property and equipment	(608,070)	(314,573)
Gross deferred income tax liabilities	(608,070)	(325,801)
Net deferred tax asset (liability)	\$ -	\$ -

(13) Net Loss Per Share

Basic net loss per share is calculated by dividing net loss attributable to common shareholders by the weighted-average number of common shares and pre-funded warrants outstanding during the period. The pre-funded warrants are included in the calculation of the weighted-average number of shares outstanding because their exercise requires only nominal consideration for the delivery of shares. The following table sets forth the computation of the basic and diluted net loss per share for the three and nine months ended September 30, 2023 and 2022:

	Three Months Ended September 30, 2023	Three Months Ended September 30, 2022	Nine Months Ended September 30, 2023	Nine Months Ended September 30, 2022
Numerator:				
Net loss	\$ (5,979,054)	\$ (4,027,247)	\$ (16,600,250)	\$ (13,071,205)
Denominator:				
Weighted average shares outstanding	988,333	565,470	714,397	565,470
Net loss per share, basic and diluted	\$ (6.05)	\$ (7.12)	\$ (23.24)	\$ (23.12)

Potentially dilutive securities that were not included in the diluted per share calculations because they would be anti-dilutive were as follows for the three and nine-month periods ended September 30, 2023 and September 30, 2022:

	September 30, 2023	September 30, 2022
Stock options issued under the 2021 Equity Incentive Plan	72,647	44,190
Common stock purchase warrants outstanding	786,704	250,000
Total	859,351	294,190

(14) License Agreement

CTx has a licensing agreement with a company related to the patents and licensed know-how for use in the development of CTx-1301, CTx-1302, and CTx-2103. Payments are to be made upon the occurrence of the following milestone events:

- \$250,000 Milestone payment upon dosing of first patient in a Phase 3 Clinical Trial for each product in the field, payable on a per product basis.
- \$250,000 Milestone payment upon licensee filing of new drug application for each product in the field, payable on a per product basis.
- \$250,000 Milestone payment for CTx-1301 and CTx-1302 and \$500,000 Milestone payment for CTx-2103 upon receipt of first marketing approval from the FDA, payable on a per product basis.
- \$250,000 Milestone payment for CTx-2103 upon receipt of first marketing approval from the EMA (European Medicines Agency)

As of December 31, 2022, the \$250,000 milestone for CTx-1301 relating to the dosing of first patient in a Phase 3 Clinical Trial was accrued as management deemed the milestone probable of occurring. In early 2023, the Company paid this amount as the first patient in a CTx-1301 Phase 3 Clinical Trial was dosed. The Company has not recorded any expense relating to the other milestones for any other product as it has not deemed them probable of occurring as of September 30, 2023.

(15) Related Party Transactions

The general counsel of the Company is a partner with a law firm providing office facilities space that is leased by the Company. Rental expense incurred by the Company to the law firm was \$27,000 for both the nine months ended September 30, 2023 and 2022 and \$9,000 for both the three months ended September 30, 2023 and 2022, which approximates fair value. As of September 30, 2023 and December 31, 2022, the Company had no outstanding amounts payable under this lease.

A member of the Company's Board of Directors, Peter Werth, is the manager of WFIA, the entity which provided \$8.0 million in debt financing to the Company, \$5.0 million of which was converted to equity in September 2023, as described in Note 7. The remaining principal balance of \$3.0 million was outstanding as of September 30, 2023 and the initial principal balance of \$5.0 million was outstanding as of December 31, 2022. Interest expense of \$237,500 and \$104,838 was recognized during the three months ended September 30, 2023 and September 30, 2022, respectively. Interest expense of \$677,500 and \$104,838 was recognized during the nine months ended September 30, 2023 and September 30, 2022, respectively. \$157,339 and \$292,339 of accrued interest relating to this note was outstanding as of September 30, 2023 and December 31, 2022.

On August 11, 2023, the Company entered into a Securities Purchase Agreement with WFIA and issued, in a private placement priced at the market under Nasdaq rules, 91,158 shares of its common stock at a purchase price per share of \$10.97, resulting in gross proceeds to the Company of approximately \$1.0 million.

(16) Subsequent Events

Management evaluated events that occurred subsequent to September 30, 2023, through November 13, 2023, which is the date the interim financial statements were issued.

(17) Reverse Stock Split

On November 30, 2023, the Company completed a one-for-twenty reverse stock split (the "Reverse Stock Split"), which reduced the number of shares of the Company's common stock that were issued and outstanding immediately prior to the effectiveness of the Reverse Stock Split. The number of shares of the Company's authorized common stock was not affected by the Reverse Stock Split and the par value of the Company's common stock remained unchanged at \$0.0001 per share. No fractional shares were issued in connection with the Reverse Stock Split. Except where disclosed, all amounts related to number of shares and per share amounts have been retroactively restated in these financial statements.

Up to 2,298,850 Shares of Common Stock
Up to 2,298,850 Series A Warrants to Purchase up to 2,298,850 Shares of Common Stock
Up to 1,149,425 Series B Warrants to Purchase up to 1,149,425 Shares of Common Stock
Up to 2,298,850 Pre-Funded Warrants to Purchase up to 2,298,850 Shares of Common Stock
Up to 5,747,125 Shares of Common Stock Underlying the Series A Warrants, Series B Warrants and Pre-Funded Warrants
Up to 183,908 Placement Agent Warrants to Purchase up to 183,908 Shares of Common Stock
Up to 183,908 Shares of Common Stock Underlying the Placement Agent Warrants



PROSPECTUS

, 2024

PART II

INFORMATION NOT REQUIRED IN PROSPECTUS

Item 13. Other Expenses of Issuance and Distribution.

The following table indicates the expenses to be incurred in connection with the offering described in this registration statement, other than placement agent fees, all of which will be paid by us. All amounts are estimated except the Securities and Exchange Commission registration fee and the Financial Industry Regulatory Authority, Inc., or FINRA, filing fee.

	Amount
Securities and Exchange Commission registration fee	\$ 3,837.60
FINRA filing fee	4,400
Accountants' fees and expenses	50,000
Legal fees and expenses	150,000
Miscellaneous	8,000
Total expenses	<u>\$ 216,237.60</u>

Item 14. Indemnification of Directors and Officers.

As permitted by Section 102 of the Delaware General Corporation Law, we have adopted provisions in our amended and restated certificate of incorporation and bylaws that limit or eliminate the personal liability of our directors for a breach of their fiduciary duty of care as a director. The duty of care generally requires that, when acting on behalf of the corporation, directors exercise an informed business judgment based on all material information reasonably available to them. Consequently, a director will not be personally liable to us or our stockholders for monetary damages for breach of fiduciary duty as a director, except for liability for:

- any breach of the director's duty of loyalty to us or our stockholders;
- any act or omission not in good faith or that involves intentional misconduct or a knowing violation of law;
- any act related to unlawful stock repurchases, redemptions or other distributions or payment of dividends; or
- any transaction from which the director derived an improper personal benefit.

These limitations of liability do not affect the availability of equitable remedies such as injunctive relief or rescission. Our amended and restated certificate of incorporation also authorizes us to indemnify our officers, directors and other agents to the fullest extent permitted under Delaware law.

As permitted by Section 145 of the Delaware General Corporation Law, our bylaws provide that:

- we may indemnify our directors, officers, and employees to the fullest extent permitted by the Delaware General Corporation Law, subject to limited exceptions;
- we may advance expenses to our directors, officers and employees in connection with a legal proceeding to the fullest extent permitted by the Delaware General Corporation Law, subject to limited exceptions; and
- the rights provided in our bylaws are not exclusive.

Our amended and restated certificate of incorporation, filed as Exhibit 3.1 hereto, and our amended and restated bylaws, filed as Exhibit 3.2 hereto, provide for the indemnification provisions described above and elsewhere herein. We have entered into and intend to continue to enter into separate indemnification agreements with our directors and elective officers which may be broader than the specific indemnification provisions contained in the Delaware General Corporation Law. These indemnification agreements generally require us, among other things, to indemnify our officers and directors against liabilities that may arise by reason of their status or service as directors or officers, other than liabilities arising from willful misconduct. These indemnification agreements also generally require us to advance any expenses incurred by the directors or officers as a result of any proceeding against them as to which they could be indemnified. In addition, we have purchased a policy of directors' and officers' liability insurance that insures our directors and officers against the cost of defense, settlement or payment of a judgment in some circumstances. These indemnification provisions and the indemnification agreements may be sufficiently broad to permit indemnification of our officers and directors for liabilities, including reimbursement of expenses incurred, arising under the Securities Act of 1933, as amended, or the Securities Act.

Item 15. Recent Sales of Unregistered Securities.

On July 19, 2021, the Company issued one share of its common stock, par value \$0.0001 per share, to Cingulate Therapeutics, LLC for \$0.002. Such issuance was exempt from registration under 4(a)(2) of the Securities Act of 1933, as amended, and Regulation D promulgated thereunder.

On September 29, 2021, the Company issued 357,137 shares of its common stock, par value \$0.0001 per share, to the former holders of units of Cingulate Therapeutics LLC in connection with the Reorganization Merger. Such issuances were exempt from registration under 4(a)(2) of the Securities Act of 1933, as amended, and Regulation D promulgated thereunder.

On August 9, 2022, Cingulate Therapeutics LLC issued a \$5 million promissory note (the "Original Note") to WFIA. Peter J. Werth, a member of the Company's Board of Directors is the manager of WFIA. Such issuance was exempt from registration under 4(a)(2) of the Securities Act of 1933, as amended, and Regulation D promulgated thereunder. On May 9, 2023, Cingulate Therapeutics LLC amended and restated the August Note to increase the principal amount to \$8.0 million (as so amended and restated, the "WFIA Note"). WFIA had the right during the first five business days of each calendar quarter to demand payment of all outstanding principal and interest 120 days following notice to Cingulate Therapeutics LLC. Cingulate Therapeutics LLC was permitted to repay the WFIA Note, in whole or in part, without premium or penalty; provided, that no amount repaid was permitted to be reborrowed. Such issuance was exempt from registration under 4(a)(2) of the Securities Act of 1933, as amended, and Regulation D promulgated thereunder.

On April 24, 2023, the Company completed a private placement to Lincoln Park Capital Fund, LLC ("Lincoln Park") pursuant to which it has the right to sell to Lincoln Park up to \$12.0 million in shares of common stock, subject to certain limitations, from time to time over the 36-month period commencing on the date that a registration statement covering the resale of the shares is declared effective by the SEC. We issued 18,402 Commitment Shares to Lincoln Park as consideration for its commitment to purchase shares under the LP Purchase Agreement. In the LP Purchase Agreement, Lincoln Park represented to the Company, among other things, that it was an "accredited investor" (as such term is defined in Rule 501(a) of Regulation D under the Securities Act). The securities were and will be sold by the Company under the Purchase Agreement in reliance upon an exemption from the registration requirements under the Securities Act afforded by Section 4(a)(2) of the Securities Act.

On August 11, 2023, the Company entered into a Securities Purchase Agreement with Werth Family Investment Associates LLC, and issued, in a private placement priced at the market under Nasdaq rules, 91,158 shares of the Company's common stock at a purchase price per share of \$10.97, for aggregate gross proceeds to the Company of approximately \$1.0 million, before deducting transaction expenses payable by the Company (the "WFIA Private Placement"). The WFIA Private Placement closed on August 11, 2023. Such issuance was exempt from the registration requirements under the Securities Act afforded by Section 4(a)(2) of the Securities Act.

On September 8, 2023, the Company and CTx entered into a note conversion agreement with WFIA, pursuant to which WFIA agreed to convert the \$5,000,000 under the WFIA Note plus all accrued interest thereon, or \$5,812,500, into pre-funded warrants ("September WIFA Pre-Funded Warrants") to purchase 341,912 shares of common stock, at a conversion price per September WIFA Pre-Funded Warrant of \$17.00. The September WIFA Pre-Funded Warrants have no expiration date and are exercisable immediately at an exercise price of \$0.002 per share. Such issuance was exempt from the registration requirements under the Securities Act afforded by Section 4(a)(2) of the Securities Act.

On January 25, 2024, we entered into a Note Conversion Agreement with WFIA and converted the remaining \$3.0 million of principal plus all accrued interest, or \$3,287,500, under the note payable to WFIA into pre-funded warrants ("January WIFA Pre-Funded Warrants") to purchase 687,043 shares of common stock at a conversion price per January WIFA Pre-Funded Warrant of \$4.785. The January WIFA Pre-Funded Warrants have no expiration date and are exercisable immediately at an exercise price of \$0.0001 per share. Such issuance was exempt from the registration requirements under the Securities Act afforded by Section 4(a)(2) of the Securities Act.

Item 16. Exhibits and Financial Statement Schedules.

Exhibit Number	Exhibit Description	Form	Exhibit	Filing Date
2.1†	Agreement and Plan of Merger, dated August 30, 2021, among Cingulate, Inc., Cingulate Therapeutics LLC, and Cingulate Pharma LLC	S-1	2.1	9/9/2021
3.1**	Amended and Restated Certificate of Incorporation of Cingulate Inc., as amended to date			
3.2	Amended and Restated Bylaws of Cingulate Inc.	10-K	3.2	3/28/2022
4.1	Specimen Certificate representing shares of common stock of Cingulate Inc.	S-1	4.1	9/9/2021
4.2	Form of Underwriter Common Stock Purchase Warrant (IPO)	S-1	4.2	11/10/2021
4.3	Form of Common Stock Purchase Warrant (IPO)	S-1	4.3	12/9/2021
4.4	Form of Warrant Agent Agreement (IPO)	S-1	4.4	12/9/2021
4.5	Form of Pre-Funded Warrant (September 2023 Offering)	S-1	4.5	8/29/2023
4.6	Form of Series A Warrant (September 2023 Offering)	S-1	4.6	8/29/2023
4.7	Form of Series B Warrant (September 2023 Offering)	S-1	4.7	8/29/2023
4.8	Form of Placement Agent Warrant (September 2023 Offering)	S-1	4.8	8/29/2023
4.9	Form of Pre-Funded Warrant (WFIA)	8-K	4.1	9/11/2023
4.10	Form of Pre-Funded Warrant (WFIA)	8-K	4.1	1/29/2024
4.11*	Form of Pre-Funded Warrant offered hereby			
4.12*	Form of Series A Warrant offered hereby			
4.13*	Form of Series B Warrant offered hereby			
4.14*	Form of Placement Agent Warrant			
5.1*	Opinion of Lowenstein Sandler LLP			
10.1#	Patent and Know-How License Agreement, dated August 8, 2018, between BDD Pharma Limited, Cingulate Therapeutics LLC and Drug Delivery International Limited	S-1	10.2	9/9/2021
10.2#	Master Services Agreement between Cingulate Therapeutics LLC and Societal CDMO, Inc., dated October 24, 2022	8-K	10.1	10/25/2022
10.3+	Employment Agreement, dated September 23, 2021, between Cingulate Therapeutics LLC and Shane J. Schaffer	S-1	10.4	9/27/2021
10.4+	Employment Agreement, dated September 23, 2021, between Cingulate Therapeutics LLC and Matthew N. Brams	S-1	10.5	9/27/2021
10.5+	Employment Agreement, dated September 23, 2021, between Cingulate Therapeutics LLC and Laurie A. Myers	S-1	10.6	9/27/2021
10.6+	Employment Agreement, dated September 23, 2021, between Cingulate Therapeutics LLC and Craig S. Gilgallon	S-1	10.7	9/27/2021
10.7+	Employment Agreement, dated September 23, 2021, between Cingulate Therapeutics LLC and Louis G. Van Horn	S-1	10.8	9/27/2021

10.8+	Employment Agreement, dated September 23, 2021, between Cingulate Therapeutics LLC and Raul R. Silva	S-1	10.9	9/27/2021
10.9+	Amendment to Employment Agreement, effective April 1, 2022, between Cingulate Therapeutics LLC and Raul R. Silva	10-Q	10.1	8/11/2022
10.10+	Amendment to Employment Agreement, effective January 1, 2023, between Cingulate Therapeutics LLC and Raul R. Silva	10-K	10.10	3/10/2023
10.11+	Form of Indemnification Agreement	S-1	10.10	9/9/2021
10.12+	Cingulate Inc. 2021 Omnibus Equity Incentive Plan	S-1	10.1	9/27/2021
10.13+	Form of Nonqualified Stock Option Award under 2021 Plan	10-Q	10.1	5/12/2022
10.14+	Form of Incentive Stock Option Award under 2021 Plan	10-Q	10.2	5/12/2022
10.15+	Form of Restricted Stock Unit Award under 2021 Plan	S-1	10.20	9/27/2021
10.16+	Form of Restricted Stock Award under 2021 Plan	S-1	10.21	9/27/2021
10.17	Amended and Restated Promissory Note, dated May 9, 2023, between Cingulate Therapeutics, LLC and Werth Family Investment Associates	8-K	10.1	5/10/2023
10.18	At The Market Offering Agreement, dated January 3, 2023, by and between Cingulate Inc. and H.C. Wainwright & Co., LLC	S-3	1.2	1/3/2023
10.19	Amendment to ATM Agreement, dated May 2, 2023, by and between Cingulate Inc. and H.C. Wainwright & Co., LLC	10-Q	10.5	5/10/2023
10.20	Joint Commercialization Agreement, dated March 7, 2023, by and between Cingulate Therapeutics, LLC and Indegene, Inc.	10-K	10.19	3/10/2023
10.21	Purchase Agreement, dated April 24, 2023, by and between Lincoln Park Capital, LLC and Cingulate Inc.	8-K	10.1	4/25/2023
10.22	Registration Rights Agreement, dated April 24, 2023, by and between Lincoln Park Capital, LLC and Cingulate Inc.	8-K	10.2	4/25/2023
10.23	Securities Purchase Agreement, dated August 11, 2023, by and between the Company and Werth Family Investment Associates LLC	8-K	10.1	8/14/2023
10.24	Form of Securities Purchase Agreement	S-1	10.24	9/7/2023
10.25	Note Conversion Agreement, dated September 8, 2023, by and between the Company, Cingulate Therapeutics, LLC and Werth Family Investment Associates LLC	8-K	10.1	9/11/2023
10.26**+	Amendment to Employment Agreement, effective January 1, 2024, between Cingulate Therapeutics, LLC and Matthew N. Brams			
10.27**+	Amendment to Employment Agreement, effective December 29, 2023, between Cingulate Therapeutics, LLC and Raul A. Silva			
10.28	Note Conversion Agreement, dated January 25, 2024, by and between the Company, Cingulate Therapeutics, LLC and Werth Family Investment Associates LLC	8-K	10.1	1/29/2024
10.29+	Employment Agreement, dated January 25, 2024, between Cingulate Therapeutics LLC, and Jennifer L. Callahan	8-K	10.2	1/29/2024
10.30*	Form of Securities Purchase Agreement			
21.1	List of Subsidiaries of Cingulate Inc.	10-K	21.1	3/10/2023
23.1*	Consent of Independent Registered Public Accounting Firm			
23.2*	Consent of Lowenstein Sandler LLP (included in Exhibit 5.1)			
24.1**	Power of Attorney (contained in the signature page of this registration statement)			
101.INS*	XBRL Instance Document - the instance document does not appear in the Interactive Data File because its XBRL tags are embedded within the Inline XBRL document.			
101.SCH*	Inline XBRL Taxonomy Extension Schema			
101.CAL*	Inline XBRL Taxonomy Extension Calculation Linkbase			
101.DEF*	Inline XBRL Taxonomy Extension Definition Linkbase			
101.LAB*	Inline XBRL Taxonomy Extension Label Linkbase			
101.PRE*	Inline XBRL Taxonomy Extension Presentation Linkbase			
104*	Cover Page Interactive Data File (formatted in Inline XBRL and contained in Exhibit 101)			
107**	Filing Fee Table			

† Annexes, schedules and/or exhibits have been omitted pursuant to Item 601(a)(5) of Regulation S-K. The Registrant hereby undertakes to furnish supplementally a copy of any of the omitted schedules and exhibits to the SEC on a confidential basis upon request.

* Filed herewith.

** Previously filed.

+ Indicates a management contract or compensatory plan.

Certain portions of this exhibit have been omitted because the omitted information is (i) not material and (ii) would likely cause competitive harm to the Company if publicly disclosed.

Item 17. Undertakings.

The undersigned registrant hereby undertakes

(a) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

(i) To include any prospectus required by Section 10(a)(3) of the Securities Act;

(ii) To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the SEC pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than 20 percent change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement; and

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement;

(b) that, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

(c) to remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(d) that, for the purpose of determining liability under the Securities Act of 1933 to any purchaser, each prospectus filed pursuant to Rule 424(b) as part of a registration statement relating to an offering, other than registration statements relying on Rule 430B or other than prospectuses filed in reliance on Rule 430A, shall be deemed to be part of and included in the registration statement as of the date it is first used after effectiveness. *Provided, however*, that no statement made in a registration statement or prospectus that is part of the registration statement or made in a document incorporated or deemed incorporated by reference into the registration statement or prospectus that is part of the registration statement will, as to a purchaser with a time of contract of sale prior to such first use, supersede or modify any statement that was made in the registration statement or prospectus that was part of the registration statement or made in any such document immediately prior to such date of first use.

(e) that, for the purpose of determining liability of the registrant under the Securities Act to any purchaser in the initial distribution of the securities, the undersigned registrant hereby undertakes that in a primary offering of securities of the undersigned registrant pursuant to this registration statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of any of the following communications, the undersigned registrant will be a seller to the purchaser and will be considered to offer or sell such securities to such purchaser:

(i) Any preliminary prospectus or prospectus of the undersigned registrant relating to the offering required to be filed pursuant to Rule 424 (§ 230.424 of this chapter);

(ii) Any free writing prospectus relating to the offering prepared by or on behalf of the undersigned registrant or used or referred to by the undersigned registrant;

(iii) The portion of any other free writing prospectus relating to the offering containing material information about the undersigned registrant or its securities provided by or on behalf of the undersigned registrant; and

(iv) Any other communication that is an offer in the offering made by the undersigned registrant to the purchaser.

(f) Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the Registrant has been advised that in the opinion of the SEC such indemnification is against public policy as expressed in the Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Act and will be governed by the final adjudication of such issue.

(g) That:

(1) For purposes of determining any liability under the Securities Act of 1933, the information omitted from the form of prospectus filed as part of this registration statement in reliance upon Rule 430A and contained in a form of prospectus filed by the Registrant pursuant to Rule 424(b)(1) or (4) or 497(h) under the Securities Act shall be deemed to be part of this registration statement as of the time it was declared effective.

(2) For the purpose of determining any liability under the Securities Act of 1933, each post-effective amendment that contains a form of prospectus shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Kansas City, Kansas, on the 29th day of January, 2024.

CINGULATE INC.

By: /s/ Shane J. Schaffer

Name: Shane J. Schaffer

Title: Chief Executive Officer

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities held on the dates indicated:

Signature	Title	Date
<u>/s/ Shane J. Schaffer</u> Shane J. Schaffer	Chief Executive Officer, Chairman (Principal Executive Officer)	January 29, 2024
<u>/s/ Jennifer L. Callahan</u> Jennifer L. Callahan	Chief Financial Officer (Principal Financial Officer and Principal Accounting Officer)	January 29, 2024
<u>*</u> Peter J. Werth	Director	January 29, 2024

*By: /s/ Shane J. Schaffer

Shane J. Schaffer

Attorney-in-fact

PRE-FUNDED COMMON STOCK PURCHASE WARRANT

CINGULATE INC.

Warrant Shares: _____

Issue Date: _____, 2024

Initial Exercise Date: _____, 2024

THIS PRE-FUNDED COMMON STOCK PURCHASE WARRANT (the "Warrant") certifies that, for value received, _____ or its assigns (the "Holder") is entitled, upon the terms and subject to the limitations on exercise and the conditions hereinafter set forth, at any time on or after the date set forth above (the "Initial Exercise Date") and until this Warrant is exercised in full (the "Termination Date") but not thereafter, to subscribe for and purchase from Cingulate Inc., a Delaware corporation (the "Company"), up to _____ shares (as subject to adjustment hereunder, the "Warrant Shares") of Common Stock. The purchase price of one share of Common Stock under this Warrant shall be equal to the Exercise Price, as defined in Section 2(b).

Section 1. Definitions. In addition to the terms defined elsewhere in this Warrant, the following terms have the meanings indicated in this Section 1:

"Affiliate" means any Person that, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with a Person, as such terms are used in and construed under Rule 405 under the Securities Act.

"Bid Price" means, for any date, the price determined by the first of the following clauses that applies: (a) if the Common Stock is then listed or quoted on a Trading Market, the bid price of the Common Stock for the time in question (or the nearest preceding date) on the Trading Market on which the Common Stock is then listed or quoted as reported by Bloomberg L.P. ("Bloomberg") (based on a Trading Day from 9:30 a.m. (New York City time) to 4:02 p.m. (New York City time)), (b) if OTCQB or OTCQX is not a Trading Market, the volume weighted average price of the Common Stock for such date (or the nearest preceding date) on OTCQB or OTCQX as applicable, (c) if the Common Stock is not then listed or quoted for trading on OTCQB or OTCQX and if prices for the Common Stock are then reported on the Pink Open Market (or a similar organization or agency succeeding to its functions of reporting prices), the most recent bid price per share of the Common Stock so reported, or (d) in all other cases, the fair market value of a share of Common Stock as determined by an independent appraiser selected in good faith by the Holders of a majority in interest of the Warrants then outstanding and reasonably acceptable to the Company, the reasonable fees and expenses of which shall be paid by the Company.

"Commission" means the United States Securities and Exchange Commission.

“Common Stock” means the common stock of the Company, par value \$0.0001 per share, and any other class of securities into which such securities may hereafter be reclassified or changed.

“Common Stock Equivalents” means any securities of the Company or the Subsidiaries which would entitle the holder thereof to acquire at any time Common Stock, including, without limitation, any debt, preferred stock, right, option, warrant or other instrument that is at any time convertible into or exercisable or exchangeable for, or otherwise entitles the holder thereof to receive, Common Stock.

“Exchange Act” means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

“Person” means an individual or corporation, partnership, trust, incorporated or unincorporated association, joint venture, limited liability company, joint stock company, government (or an agency or subdivision thereof) or other entity of any kind.

“Purchase Agreement” means the Purchase Agreement, dated as of _____, 2024 among the Company and certain purchasers signatory thereto, as amended, modified or supplemented from time to time in accordance with its terms.

“Registration Statement” means the effective registration statement on Form S-1 filed with Commission (File No. 333-276502), including all information, documents and exhibits filed with or incorporated by reference into such registration statement, as amended from time to time, which registers the sale the Warrants and the Warrant Shares, among others, and includes any Rule 462(b) Registration Statement.

“Securities Act” means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

“Subsidiaries” means the subsidiaries of the Company set forth on Exhibit 21.1 to the Registration Statement and shall, where applicable, also include any direct or indirect subsidiary of the Company formed or acquired after the date hereof.

“Trading Day” means a day on which the Common Stock is traded on a Trading Market.

“Trading Market” means any of the following markets or exchanges on which the Common Stock is listed or quoted for trading on the date in question: the NYSE American, the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market or the New York Stock Exchange (or any successors to any of the foregoing).

“Transfer Agent” means Computershare Trust Company, N.A., the current transfer agent of the Company, with a mailing address of 480 Washington Blvd 26th Floor, Jersey City, NJ 07310, and any successor transfer agent of the Company.

“VWAP” means, for any date, the price determined by the first of the following clauses that applies: (a) if the Common Stock is then listed or quoted on a Trading Market, the daily volume weighted average price of the Common Stock for such date (or the nearest preceding date) on the Trading Market on which the Common Stock is then listed or quoted as reported by Bloomberg (based on a Trading Day from 9:30 a.m. (New York City time) to 4:02 p.m. (New York City time)), (b) if OTCQB or OTCQX is not a Trading Market, the volume weighted average price of the Common Stock for such date (or the nearest preceding date) on OTCQB or OTCQX as applicable, (c) if the Common Stock is not then listed or quoted for trading on OTCQB or OTCQX and if prices for the Common Stock are then reported on The Pink Open Market (or a similar organization or agency succeeding to its functions of reporting prices), the most recent bid price per share of the Common Stock so reported, or (d) in all other cases, the fair market value of a share of Common Stock as determined by an independent appraiser selected in good faith by the Holders of a majority in interest of the Warrants then outstanding and reasonably acceptable to the Company, the reasonable fees and expenses of which shall be paid by the Company.

“Warrants” means this Warrant and other Common Stock purchase warrants issued by the Company pursuant to the Registration Statement.

Section 2. Exercise.

a) Exercise of Warrant. Exercise of the purchase rights represented by this Warrant may be made, in whole or in part, at any time or times on or after the Initial Exercise Date and on or before the Termination Date by delivery to the Company of a duly executed PDF copy submitted by e-mail (or e-mail attachment) of the Notice of Exercise in the form attached hereto as Annex A (the “Notice of Exercise”). Within the earlier of (i) two (2) Trading Days and (ii) the number of Trading Days comprising the Standard Settlement Period (as defined in Section 2(d)(i) herein) following the date of exercise as aforesaid, the Holder shall deliver the aggregate Exercise Price for the Warrant Shares specified in the applicable Notice of Exercise by wire transfer or cashier’s check drawn on a United States bank, in either case in immediately available funds, unless the cashless exercise procedure specified in Section 2(c) below is specified in the applicable Notice of Exercise. No ink-original Notice of Exercise shall be required, nor shall any medallion guarantee (or other type of guarantee or notarization) of any Notice of Exercise be required. The Company shall have no obligation to inquire with respect to or otherwise confirm the authenticity of the signature(s) contained on any Notice of Exercise nor the authority of the person so executing such Notice of Exercise. Notwithstanding anything herein to the contrary, the Holder shall not be required to physically surrender this Warrant to the Company until the Holder has purchased all of the Warrant Shares available hereunder and the Warrant has been exercised in full, in which case, the Holder shall surrender this Warrant to the Company for cancellation within three (3) Trading Days of the date on which the final Notice of Exercise is delivered to the Company. Partial exercises of this Warrant resulting in purchases of a portion of the total number of Warrant Shares available hereunder shall have the effect of lowering the outstanding number of Warrant Shares purchasable hereunder in an amount equal to the applicable number of Warrant Shares purchased. The Holder and the Company shall maintain records showing the number of Warrant Shares purchased and the date of such purchases. The Company shall deliver any objection to any Notice of Exercise within one (1) Trading Day of receipt of such notice. **The Holder and any assignee, by acceptance of this Warrant, acknowledge and agree that, by reason of the provisions of this paragraph, following the purchase of a portion of the Warrant Shares hereunder, the number of Warrant Shares available for purchase hereunder at any given time may be less than the amount stated on the face hereof.**

b) Exercise Price. The aggregate exercise price of this Warrant, except for a nominal exercise price of \$0.0001 per Warrant Share, was pre-funded to the Company on or prior to the Initial Exercise Date and, consequently, no additional consideration (other than the nominal exercise price of \$0.0001 per Warrant Share) shall be required to be paid by the Holder to any Person to effect any exercise of this Warrant. The Holder shall not be entitled to the return or refund of all, or any portion, of such pre-paid aggregate exercise price under any circumstance or for any reason whatsoever. The remaining unpaid exercise price per share of Common Stock under this Warrant shall be \$0.0001, subject to adjustment hereunder (the “Exercise Price”).

c) Cashless Exercise. This Warrant may also be exercised, in whole or in part, at such time by means of a “cashless exercise” in which the Holder shall be entitled to receive a number of Warrant Shares equal to the quotient obtained by dividing $[(A-B) (X)]$ by (A), where:

(A) = as applicable: (i) the VWAP on the Trading Day immediately preceding the date of the applicable Notice of Exercise if such Notice of Exercise is (1) both executed and delivered pursuant to Section 2(a) hereof on a day that is not a Trading Day or (2) both executed and delivered pursuant to Section 2(a) hereof on a Trading Day prior to the opening of “regular trading hours” (as defined in Rule 600(b) of Regulation NMS promulgated under the federal securities laws) on such Trading Day, (ii) at the option of the Holder, either (y) the VWAP on the Trading Day immediately preceding the date of the applicable Notice of Exercise or (z) the Bid Price of the Common Stock on the principal Trading Market as reported by Bloomberg as of the time of the Holder’s execution of the applicable Notice of Exercise if such Notice of Exercise is executed during “regular trading hours” on a Trading Day and is delivered within two (2) hours thereafter (including until two (2) hours after the close of “regular trading hours” on a Trading Day) pursuant to Section 2(a) hereof or (iii) the VWAP on the date of the applicable Notice of Exercise if the date of such Notice of Exercise is a Trading Day and such Notice of Exercise is both executed and delivered pursuant to Section 2(a) hereof after the close of “regular trading hours” on such Trading Day;

(B) = the Exercise Price of this Warrant, as adjusted hereunder; and

(X) = the number of Warrant Shares that would be issuable upon exercise of this Warrant in accordance with the terms of this Warrant if such exercise were by means of a cash exercise rather than a cashless exercise.

If Warrant Shares are issued in such a cashless exercise, the parties acknowledge and agree that in accordance with Section 3(a)(9) of the Securities Act, the Warrant Shares shall take on the registered characteristics of the Warrants being exercised. The Company agrees not to take any position contrary to this Section 2(c).

d) Mechanics of Exercise.

i. Delivery of Warrant Shares Upon Exercise. The Company shall cause the Warrant Shares purchased hereunder to be transmitted by the Transfer Agent to the Holder by crediting the account of the Holder's or its designee's balance account with The Depository Trust Company through its Deposit or Withdrawal at Custodian system ("DWAC") if the Company's transfer agent is then a participant in such system and either (A) there is an effective registration statement permitting the issuance of the Warrant Shares to or resale of the Warrant Shares by the Holder or (B) this Warrant is being exercised via cashless exercise, and otherwise by physical delivery of a certificate, registered in the Company's share register in the name of the Holder or its designee, for the number of Warrant Shares to which the Holder is entitled pursuant to such exercise to the address specified by the Holder in the Notice of Exercise by the date that is the earliest of (i) two (2) Trading Days after the delivery to the Company of the Notice of Exercise, (ii) one (1) Trading Day after delivery of the aggregate Exercise Price to the Company and (iii) the number of Trading Days comprising the Standard Settlement Period after the delivery to the Company of the Notice of Exercise (such date, the "Warrant Share Delivery Date"). Upon delivery of the Notice of Exercise, the Holder shall be deemed for all corporate purposes to have become the holder of record of the Warrant Shares with respect to which this Warrant has been exercised, irrespective of the date of delivery of the Warrant Shares, provided that payment of the aggregate Exercise Price (other than in the case of a cashless exercise) is received within the earlier of (i) two (2) Trading Days and (ii) the number of Trading Days comprising the Standard Settlement Period following delivery of the Notice of Exercise. If the Company fails for any reason to deliver to the Holder the Warrant Shares subject to a Notice of Exercise by the Warrant Share Delivery Date, the Company shall pay to the Holder, in cash, as liquidated damages and not as a penalty, for each \$1,000 of Warrant Shares subject to such exercise (based on the VWAP of the Common Stock on the date of the applicable Notice of Exercise), \$10 per Trading Day (increasing to \$20 per Trading Day on the third Trading Day after the Warrant Share Delivery Date) for each Trading Day after such Warrant Share Delivery Date until such Warrant Shares are delivered or Holder rescinds such exercise. The Company agrees to maintain a transfer agent that is a participant in the FAST program so long as this Warrant remains outstanding and exercisable. As used herein, "Standard Settlement Period" means the standard settlement period, expressed in a number of Trading Days, on the Company's primary Trading Market with respect to the Common Stock as in effect on the date of the delivery of the Notice of Exercise. Notwithstanding the foregoing, with respect to any Notice(s) of Exercise delivered on or prior to 12:00 p.m. (New York City time) on the Initial Exercise Date, which may be delivered at any time after the time of execution of the Purchase Agreement, the Company agrees to deliver the Warrant Shares subject to such notice(s) by 4:00 p.m. (New York City time) on the Initial Exercise Date and the Initial Exercise Date shall be the Warrant Share Delivery Date for purposes hereunder, provided that payment of the aggregate Exercise Price (other than in the case of a cashless exercise) is received by such Warrant Share Delivery Date.

ii. Delivery of New Warrants Upon Exercise. If this Warrant shall have been exercised in part, the Company shall, at the request of a Holder and upon surrender of this Warrant, at the time of delivery of the Warrant Shares, deliver to the Holder a new Warrant evidencing the rights of the Holder to purchase the unpurchased Warrant Shares remaining available under this Warrant, which new Warrant shall in all other respects be identical with this Warrant.

iii. Rescission Rights. If the Company fails to cause the Transfer Agent to transmit to the Holder the Warrant Shares pursuant to Section 2(d)(i) by the Warrant Share Delivery Date, then the Holder will have the right to rescind such exercise.

iv. Compensation for Buy-In on Failure to Timely Deliver Warrant Shares Upon Exercise. In addition to any other rights available to the Holder, if the Company fails to cause the Transfer Agent to transmit to the Holder the Warrant Shares in accordance with the provisions of Section 2(d)(i) above pursuant to an exercise on or before the Warrant Share Delivery Date, and if after such date the Holder is required by its broker to purchase (in an open market transaction or otherwise) or the Holder's brokerage firm otherwise purchases, shares of Common Stock to deliver in satisfaction of a sale by the Holder of the Warrant Shares which the Holder anticipated receiving upon such exercise (a "Buy-In"), then the Company shall (A) pay in cash to the Holder the amount, if any, by which (x) the Holder's total purchase price (including reasonable and customary brokerage commissions, if any) for the shares of Common Stock so purchased exceeds (y) the amount obtained by multiplying (1) the number of Warrant Shares that the Company was required to deliver to the Holder in connection with the exercise at issue times (2) the price at which the sell order giving rise to such purchase obligation was executed, and (B) at the option of the Holder, either reinstate the portion of the Warrant and equivalent number of Warrant Shares for which such exercise was not honored (in which case such exercise shall be deemed rescinded) or deliver to the Holder the number of shares of Common Stock that would have been issued had the Company timely complied with its exercise and delivery obligations hereunder. For example, if the Holder purchases Common Stock having a total purchase price of \$11,000 to cover a Buy-In with respect to an attempted exercise of shares of Common Stock with an aggregate sale price giving rise to such purchase obligation of \$10,000, under clause (A) of the immediately preceding sentence the Company shall be required to pay the Holder \$1,000. The Holder shall provide the Company written notice indicating the amounts payable to the Holder in respect of the Buy-In and, upon request of the Company, evidence of the amount of such loss. Nothing herein shall limit a Holder's right to pursue any other remedies available to it hereunder, at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief with respect to the Company's failure to timely deliver shares of Common Stock upon exercise of the Warrant as required pursuant to the terms hereof.

v. No Fractional Shares or Scrip. No fractional shares or scrip representing fractional shares shall be issued upon the exercise of this Warrant. As to any fraction of a share which the Holder would otherwise be entitled to purchase upon such exercise, the Company shall, at its election, either pay a cash adjustment in respect of such final fraction in an amount equal to such fraction multiplied by the Exercise Price or round up to the next whole share.

vi. Charges, Taxes and Expenses. Issuance of Warrant Shares shall be made without charge to the Holder for any issue or transfer tax or other incidental expense in respect of the issuance of such Warrant Shares, all of which taxes and expenses shall be paid by the Company, and such Warrant Shares shall be issued in the name of the Holder or in such name or names as may be directed by the Holder; provided, however, that in the event that Warrant Shares are to be issued in a name other than the name of the Holder, this Warrant when surrendered for exercise shall be accompanied by the assignment form attached hereto as Annex B (the "Assignment Form") duly executed by the Holder and the Company may require, as a condition thereto, the payment of a sum sufficient to reimburse it for any transfer tax incidental thereto. The Company shall pay all Transfer Agent fees required for same-day processing of any Notice of Exercise and all fees to the Depository Trust Company (or another established clearing corporation performing similar functions) required for same-day electronic delivery of the Warrant Shares.

vii. Closing of Books. The Company will not close its stockholder books or records in any manner which prevents the timely exercise of this Warrant, pursuant to the terms hereof.

e) Beneficial Ownership Limitations. The Company shall not effect any exercise of this Warrant, and a Holder shall not have the right to exercise any portion of this Warrant, pursuant to Section 2 or otherwise, to the extent that after giving effect to such issuance after exercise as set forth on the applicable Notice of Exercise, the Holder (together with the Holder's Affiliates, and any other Persons acting as a group together with the Holder or any of the Holder's Affiliates (such Persons, "Attribution Parties")), would beneficially own in excess of the Beneficial Ownership Limitation (as defined below). For purposes of the foregoing sentence, the number of shares of Common Stock beneficially owned by the Holder and its Affiliates and Attribution Parties shall include the number of shares of Common Stock issuable upon exercise of this Warrant with respect to which such determination is being made, but shall exclude the number of shares of Common Stock which would be issuable upon (i) exercise of the remaining, nonexercised portion of this Warrant beneficially owned by the Holder or any of its Affiliates or Attribution Parties and (ii) exercise or conversion of the unexercised or nonconverted portion of any other securities of the Company (including, without limitation, any other Common Stock Equivalents) subject to a limitation on conversion or exercise analogous to the limitation contained herein beneficially owned by the Holder or any of its Affiliates or Attribution Parties. Except as set forth in the preceding sentence, for purposes of this Section 2(e), beneficial ownership shall be calculated in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder, it being acknowledged by the Holder that the Company is not representing to the Holder that such calculation is in compliance with Section 13(d) of the Exchange Act and the Holder is solely responsible for any schedules required to be filed in accordance therewith and the calculations required under this Section 2(e). To the extent that the limitation contained in this Section 2(e) applies, the determination of whether this Warrant is exercisable (in relation to other securities owned by the Holder together with any Affiliates and Attribution Parties) and of which portion of this Warrant is exercisable shall be in the sole discretion of the Holder, and the submission of a Notice of Exercise shall be deemed to be the Holder's determination of whether this Warrant is exercisable (in relation to other securities owned by the Holder together with any Affiliates and Attribution Parties) and of which portion of this Warrant is exercisable, in each case subject to the Beneficial Ownership Limitation, and the Company shall have no obligation to verify or confirm the accuracy of such determination. In addition, a determination as to any group status as contemplated above shall be determined in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder. For purposes of this Section 2(e), in determining the number of outstanding shares of Common Stock, a Holder may rely on the number of outstanding shares of Common Stock as reflected in (A) the Company's most recent periodic or annual report filed with the Commission, as the case may be, (B) a more recent public announcement by the Company or (C) a more recent written notice by the Company or the Transfer Agent setting forth the number of shares of Common Stock outstanding. Upon the written or oral request of a Holder, the Company shall within one (1) Trading Day confirm orally and in writing to the Holder the number of shares of Common Stock then outstanding. In any case, the number of outstanding shares of Common Stock shall be determined after giving effect to the conversion or exercise of securities of the Company, including this Warrant, by the Holder or its Affiliates or Attribution Parties since the date as of which such number of outstanding shares of Common Stock was reported. The "Beneficial Ownership Limitation" shall be [4.99%]/[9.99%] of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock issuable upon exercise of this Warrant. The Holder, upon notice to the Company, may increase or decrease the Beneficial Ownership Limitation provisions of this Section 2(e), provided that the Beneficial Ownership Limitation in no event exceeds 9.99% of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock upon exercise of this Warrant held by the Holder and the provisions of this Section 2(e) shall continue to apply. Any increase in the Beneficial Ownership Limitation will not be effective until the 61st day after such notice is delivered to the Company. The provisions of this Section 2(e) shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this Section 2(e) to correct this Section 2(e) (or any portion hereof) which may be defective or inconsistent with the intended Beneficial Ownership Limitation herein contained or to make changes or supplements necessary or desirable to properly give effect to such limitation. The limitations contained in this Section 2(e) shall apply to a successor holder of this Warrant.

Section 3. Certain Adjustments.

a) Stock Dividends and Splits. If the Company, at any time while this Warrant is outstanding: (i) pays a stock dividend or otherwise makes a distribution or distributions on shares of its Common Stock or any other equity or equity equivalent securities payable in shares of Common Stock (which, for avoidance of doubt, shall not include any shares of Common Stock issued by the Company upon exercise of this Warrant), (ii) subdivides outstanding shares of Common Stock into a larger number of shares, (iii) combines (including by way of reverse stock split) outstanding shares of Common Stock into a smaller number of shares, or (iv) issues by reclassification of shares of the Common Stock any shares of capital stock of the Company, then in each case the Exercise Price shall be multiplied by a fraction of which the numerator shall be the number of shares of Common Stock (excluding treasury shares, if any) outstanding immediately before such event and of which the denominator shall be the number of shares of Common Stock outstanding immediately after such event, and the number of shares issuable upon exercise of this Warrant shall be proportionately adjusted such that the aggregate Exercise Price of this Warrant shall remain unchanged. Any adjustment made pursuant to this Section 3(a) shall become effective immediately after the record date for the determination of stockholders entitled to receive such dividend or distribution and shall become effective immediately after the effective date in the case of a subdivision, combination or reclassification.

b) Subsequent Rights Offerings. In addition to any adjustments pursuant to Section 3(a) above, if at any time while this Warrant is outstanding the Company grants, issues or sells any Common Stock Equivalents or rights to purchase stock, warrants, securities or other property pro rata to the record holders of any class of shares of Common Stock (the "Purchase Rights"), then the Holder will be entitled to acquire, upon the terms applicable to such Purchase Rights, the aggregate Purchase Rights which the Holder could have acquired if the Holder had held the number of shares of Common Stock acquirable upon complete exercise of this Warrant (without regard to any limitations on exercise hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date on which a record is taken for the grant, issuance or sale of such Purchase Rights, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the grant, issue or sale of such Purchase Rights (provided, however, that to the extent that the Holder's right to participate in any such Purchase Right would result in the Holder exceeding the Beneficial Ownership Limitation, then the Holder shall not be entitled to participate in such Purchase Right to such extent (or beneficial ownership of such shares of Common Stock as a result of such Purchase Right to such extent) and such Purchase Right to such extent shall be held in abeyance for the Holder until such time, if ever, as its right thereto would not result in the Holder exceeding the Beneficial Ownership Limitation); provided, that such Purchase Right shall terminate on, and shall not be held in abeyance for any period subsequent to the Termination Date.

c) Pro Rata Distributions. During such time as this Warrant is outstanding, if the Company shall declare or make any dividend or other distribution of its assets (or rights to acquire its assets) to holders of shares of Common Stock, by way of return of capital or otherwise (including, without limitation, any distribution of cash, stock or other securities, property or options by way of a dividend, spin off, reclassification, corporate rearrangement, scheme of arrangement or other similar transaction) (a “Distribution”), at any time after the issuance of this Warrant, then, in each such case, the Holder shall be entitled to participate in such Distribution to the same extent that the Holder would have participated therein if the Holder had held the number of shares of Common Stock acquirable upon complete exercise of this Warrant (without regard to any limitations on exercise hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date of which a record is taken for such Distribution, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the participation in such Distribution (provided, however, that to the extent that the Holder’s right to participate in any such Distribution would result in the Holder exceeding the Beneficial Ownership Limitation, then the Holder shall not be entitled to participate in such Distribution to such extent (or in the beneficial ownership of any shares of Common Stock as a result of such Distribution to such extent) and the portion of such Distribution shall be held in abeyance for the benefit of the Holder until such time, if ever, as its right thereto would not result in the Holder exceeding the Beneficial Ownership Limitation); provided, that such Purchase Right shall terminate on, and shall not be held in abeyance for any period subsequent to the Termination Date.

d) Fundamental Transaction. If, at any time while this Warrant is outstanding, (i) the Company (and all of its Subsidiaries, taken as a whole), directly or indirectly, in one or more related transactions effects any merger or consolidation of the Company with or into another Person (other than for the purpose of changing the Company’s name and/or the jurisdiction of incorporation of the Company or a holding company for the Company), (ii) the Company, directly or indirectly, effects any sale, lease, license, assignment, transfer, conveyance or other disposition of all or substantially all of its assets in one or a series of related transactions, (iii) any, direct or indirect, purchase offer, tender offer or exchange offer (whether by the Company or another Person) is completed pursuant to which holders of the outstanding equity securities of the Company having voting power, including the power to vote on the election of directors of the Company, are permitted to sell, tender or exchange their securities for other securities, cash or property and has been accepted by the holders of the outstanding securities representing more than 50% of the aggregate voting power, including the power to vote on the election of directors of the Company, of the issued and outstanding equity securities of the Company, (iv) the Company, directly or indirectly, in one or more related transactions effects any reclassification, reorganization or recapitalization of the Common Stock or any compulsory share exchange pursuant to which the Common Stock is effectively converted into or exchanged for other securities, cash or property, or (v) the Company, directly or indirectly, in one or more related transactions consummates a stock or share purchase agreement or other business combination (including, without limitation, a reorganization, recapitalization, spin-off, merger or scheme of arrangement) with another Person or group of Persons whereby such other Person or group acquires securities representing more than 50% of the aggregate voting power, including the power to vote on the election of directors of the Company, of the issued and outstanding equity securities of the Company (each a “Fundamental Transaction”), then, upon any subsequent exercise of this Warrant, the Holder shall have the right to receive, for each Warrant Share that would have been issuable upon such exercise immediately prior to the occurrence of such Fundamental Transaction, at the option of the Holder (without regard to any limitation in Section 2(e) on the exercise of this Warrant), the number of shares of Common Stock of the successor or acquiring corporation or of the Company, if it is the surviving corporation, and any additional consideration (the “Alternate Consideration”) receivable as a result of such Fundamental Transaction by a holder of the number of shares of Common Stock for which this Warrant is exercisable immediately prior to such Fundamental Transaction (without regard to any limitation in Section 2(e) on the exercise of this Warrant). For purposes of any such exercise, the determination of the Exercise Price shall be appropriately adjusted to apply to such Alternate Consideration based on the amount of Alternate Consideration issuable in respect of one share of Common Stock in such Fundamental Transaction, and the Company shall apportion the Exercise Price among the Alternate Consideration in a reasonable manner reflecting the relative value of any different components of the Alternate Consideration. If holders of Common Stock are given any choice as to the securities, cash or property to be received in a Fundamental Transaction, then the Holder shall be given the same choice as to the Alternate Consideration it receives upon any exercise of this Warrant following such Fundamental Transaction. The Company shall require any successor entity in a Fundamental Transaction in which the Company is not the survivor (the “Successor Entity”) to assume in writing all of the obligations of the Company under this Warrant and the other Transaction Documents in accordance with the provisions of this Section 3(d) pursuant to written agreements in form and substance reasonably satisfactory to the Holder and approved by the Holder (without unreasonable delay) prior to such Fundamental Transaction and shall, at the option of the Holder, deliver to the Holder in exchange for this Warrant a security of the Successor Entity evidenced by a written instrument substantially similar in form and substance to this Warrant which is exercisable for a corresponding number of shares of capital stock of such Successor Entity (or its parent entity) equivalent to the shares of Common Stock acquirable and receivable upon exercise of this Warrant (without regard to any limitations on the exercise of this Warrant) prior to such Fundamental Transaction, and with an exercise price which applies the exercise price hereunder to such shares of capital stock (but taking into account the relative value of the shares of Common Stock pursuant to such Fundamental Transaction and the value of such shares of capital stock, such number of shares of capital stock and such exercise price being for the purpose of protecting the economic value of this Warrant immediately prior to the consummation of such Fundamental Transaction), and which is reasonably satisfactory in form and substance to the Holder. Upon the occurrence of any such Fundamental Transaction, the Successor Entity shall succeed to, and be substituted for (so that from and after the date of such Fundamental Transaction, the provisions of this Warrant and the other Transaction Documents referring to the “Company” shall refer instead to the Successor Entity), and may exercise every right and power of the Company and shall assume all of the obligations of the Company under this Warrant and the other Transaction Documents with the same effect as if such Successor Entity had been named as the Company herein. For the avoidance of doubt, the Holder shall be entitled to the benefits of the provisions of this Section 3(d) regardless of whether the Company has sufficient authorized shares of Common Stock for the issuance of Warrant Shares.

e) Calculations. All calculations under this Section 3 shall be made to the nearest cent or the nearest 1/100th of a share, as the case may be. For purposes of this Section 3, the number of shares of Common Stock deemed to be issued and outstanding as of a given date shall be the sum of the number of shares of Common Stock (excluding treasury shares, if any) issued and outstanding.

f) Notice to Holder.

i. Adjustment to Exercise Price. Whenever the Exercise Price is adjusted pursuant to any provision of this Section 3, the Company shall promptly deliver to the Holder by email a notice setting forth the Exercise Price after such adjustment and any resulting adjustment to the number of Warrant Shares and setting forth a brief statement of the facts requiring such adjustment.

ii. Notice to Allow Exercise by Holder. If (A) the Company shall declare a dividend (or any other distribution in whatever form) on the Common Stock, (B) the Company shall declare a special nonrecurring cash dividend on or a redemption of the Common Stock, (C) the Company shall authorize the granting to all holders of the Common Stock rights or warrants to subscribe for or purchase any shares of capital stock of any class or of any rights, (D) the approval of any stockholders of the Company shall be required in connection with any reclassification of the Common Stock, any consolidation or merger to which the Company (and all of its Subsidiaries, taken as a whole) is a party, any sale or transfer of all or substantially all of the assets of the Company, or any compulsory share exchange whereby the Common Stock is converted into other securities, cash or property, or (E) the Company shall authorize the voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Company, then, in each case, the Company shall cause to be delivered by email to the Holder at its last email or other address as it shall appear upon the Warrant Register of the Company, at least 20 calendar days prior to the applicable record or effective date hereinafter specified, a notice stating (x) the date on which a record is to be taken for the purpose of such dividend, distribution, redemption, rights or warrants, or if a record is not to be taken, the date as of which the holders of the Common Stock of record to be entitled to such dividend, distributions, redemption, rights or warrants are to be determined or (y) the date on which such reclassification, consolidation, merger, sale, transfer or share exchange is expected to become effective or close, and the date as of which it is expected that holders of the Common Stock of record shall be entitled to exchange their shares of the Common Stock for securities, cash or other property deliverable upon such reclassification, consolidation, merger, sale, transfer or share exchange; provided that the failure to deliver such notice or any defect therein or in the delivery thereof shall not affect the validity of the corporate action required to be specified in such notice. To the extent that any notice provided in this Warrant constitutes, or contains, material, non-public information regarding the Company or any of the Subsidiaries, the Company shall simultaneously file such notice with the Commission pursuant to a Current Report on Form 8-K. The Holder shall remain entitled to exercise this Warrant during the period commencing on the date of such notice to the effective date of the event triggering such notice except as may otherwise be expressly set forth herein.

Section 4. Transfer of Warrant.

a) Transferability. This Warrant and all rights hereunder (including, without limitation, any registration rights) are transferable, in whole or in part, upon surrender of this Warrant at the principal office of the Company or its designated agent, together with a written assignment of this Warrant substantially in the form attached hereto duly executed by the Holder or its agent or attorney and funds sufficient to pay any transfer taxes payable upon the making of such transfer. Upon such surrender and, if required, such payment, the Company shall execute and deliver a new Warrant or Warrants in the name of the assignee or assignees, as applicable, and in the denomination or denominations specified in such instrument of assignment, and shall issue to the assignor a new Warrant evidencing the portion of this Warrant not so assigned, and this Warrant shall promptly be cancelled. Notwithstanding anything herein to the contrary, the Holder shall not be required to physically surrender this Warrant to the Company unless the Holder has assigned this Warrant in full, in which case, the Holder shall surrender this Warrant to the Company within three (3) Trading Days of the date on which the Holder delivers a duly executed Assignment Form to the Company assigning this Warrant in full. The Warrant, if properly assigned in accordance herewith, may be exercised by a new holder for the purchase of Warrant Shares without having a new Warrant issued.

b) New Warrants. This Warrant may be divided or combined with other Warrants upon presentation hereof at the aforesaid office of the Company, together with a written notice specifying the names and denominations in which new Warrants are to be issued, signed by the Holder or its agent or attorney. Subject to compliance with Section 4(a), as to any transfer which may be involved in such division or combination, the Company shall execute and deliver a new Warrant or Warrants in exchange for the Warrant or Warrants to be divided or combined in accordance with such notice. All Warrants issued on transfers or exchanges shall be dated the initial issuance date of this Warrant and shall be identical with this Warrant except as to the number of Warrant Shares issuable pursuant thereto.

c) Warrant Register. The Company shall register this Warrant, upon records to be maintained by the Company for that purpose (the “Warrant Register”), in the name of the record Holder hereof from time to time. The Company may deem and treat the registered Holder of this Warrant as the absolute owner hereof for the purpose of any exercise hereof or any distribution to the Holder, and for all other purposes, absent actual notice to the contrary.

Section 5. Miscellaneous.

a) No Rights as Stockholder Until Exercise; No Settlement in Cash. This Warrant does not entitle the Holder to any voting rights, dividends or other rights as a stockholder of the Company prior to the exercise hereof as set forth in Section 2(d)(i), except as expressly set forth in Section 3. Without limiting any rights of a Holder to receive Warrant Shares on a “cashless exercise” pursuant to Section 2(c) or to receive cash payments pursuant to Section 2(d)(i) and Section 2(d)(iv) herein, in no event shall the Company be required to net cash settle an exercise of this Warrant.

b) Loss, Theft, Destruction or Mutilation of Warrant. The Company covenants that upon receipt by the Company of evidence reasonably satisfactory to it of the loss, theft, destruction or mutilation of this Warrant or any stock certificate relating to the Warrant Shares, and in case of loss, theft or destruction, of indemnity or security reasonably satisfactory to it (which, in the case of the Warrant, shall not include the posting of any bond), and upon surrender and cancellation of such Warrant or stock certificate, if mutilated, the Company will make and deliver a new Warrant or stock certificate of like tenor and dated as of such cancellation, in lieu of such Warrant or stock certificate.

c) Saturdays, Sundays, Holidays, etc. If the last or appointed day for the taking of any action or the expiration of any right required or granted herein shall not be a Trading Day, then such action may be taken or such right may be exercised on the next succeeding Trading Day.

d) Authorized Shares.

The Company covenants that during the period the Warrant is outstanding, it will reserve from its authorized and unissued Common Stock a sufficient number of shares to provide for the issuance of the Warrant Shares upon the exercise of any purchase rights under this Warrant. The Company further covenants that its issuance of this Warrant shall constitute full authority to its officers who are charged with the duty of issuing the necessary Warrant Shares upon the exercise of the purchase rights under this Warrant. The Company will take such reasonable action as may be necessary to assure that such Warrant Shares may be issued as provided herein without violation of any applicable law or regulation, or of any requirements of the Trading Market upon which the Common Stock may be listed. The Company covenants that all Warrant Shares which may be issued upon the exercise of the purchase rights represented by this Warrant will, upon exercise of the purchase rights represented by this Warrant and payment for such Warrant Shares in accordance herewith, be duly authorized, validly issued, fully paid and nonassessable and free from all taxes, liens and charges created by the Company in respect of the issue thereof (other than taxes in respect of any transfer occurring contemporaneously with such issue).

Except and to the extent as waived or consented to by the Holder, the Company shall not by any action, including, without limitation, amending its certificate of incorporation or through any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Warrant, but will at all times in good faith assist in the carrying out of all such terms and in the taking of all such actions as may be necessary or appropriate to protect the rights of Holder as set forth in this Warrant against impairment. Without limiting the generality of the foregoing, the Company will (i) not increase the par value of any Warrant Shares above the amount payable therefor upon such exercise immediately prior to such increase in par value, (ii) take such action as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and nonassessable Warrant Shares upon the exercise of this Warrant and (iii) use commercially reasonable efforts to obtain all such authorizations, exemptions or consents from any public regulatory body having jurisdiction thereof, as may be, necessary to enable the Company to perform its obligations under this Warrant.

Before taking any action which would result in an adjustment in the number of Warrant Shares for which this Warrant is exercisable or in the Exercise Price, the Company shall obtain all such authorizations or exemptions thereof, or consents thereto, as may be necessary from any public regulatory body or bodies having jurisdiction thereof.

e) Jurisdiction. All questions concerning the construction, validity, enforcement and interpretation of this Warrant shall be governed by and construed and enforced in accordance with the internal laws of the State of New York, without regard to the principles of conflicts of law thereof. The Company and, by accepting this Warrant, the Holder each agrees that all legal proceedings concerning the interpretations, enforcement and defense of the transactions contemplated by this Warrant (whether brought against the Company or the Holder or their respective affiliates, directors, officers, shareholders, partners, members, employees or agents) shall be commenced exclusively in the state and federal courts sitting in the City of New York. The Company and, by accepting this Warrant, the Holder each hereby irrevocably submits to the exclusive jurisdiction of the state and federal courts sitting in the City of New York, Borough of Manhattan for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein, and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of any such court, that such suit, action or proceeding is improper or is an inconvenient venue for such proceeding. The Company and, by accepting this Warrant, the Holder each hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a copy thereof via registered or certified mail or overnight delivery (with evidence of delivery) to such party at the address in effect for notices to it under this Warrant and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any other manner permitted by law. If the Company or the Holder shall commence an action, suit or proceeding to enforce any provisions of this Warrant, the prevailing party in such action, suit or proceeding shall be reimbursed by the other party for their reasonable attorneys' fees and other costs and expenses incurred with the investigation, preparation and prosecution of such action or proceeding.

f) Restrictions. The Holder acknowledges that the Warrant Shares acquired upon the exercise of this Warrant, if not registered, and the Holder does not utilize cashless exercise, will have restrictions upon resale imposed by state and federal securities laws.

g) Nonwaiver and Expenses. No course of dealing or any delay or failure to exercise any right hereunder on the part of Holder shall operate as a waiver of such right or otherwise prejudice the Holder's rights, powers or remedies. Without limiting any other provision of this Warrant, if the Company willfully and knowingly fails to comply with any provision of this Warrant, which results in any material damages to the Holder, the Company shall pay to the Holder such amounts as shall be sufficient to cover any costs and expenses including, but not limited to, reasonable attorneys' fees, including those of appellate proceedings, incurred by the Holder in collecting any amounts due pursuant hereto or in otherwise enforcing any of its rights, powers or remedies hereunder.

h) Notices. Any and all notices or other communications or deliveries to be provided by the Holder hereunder including, without limitation, any Notice of Exercise, shall be in writing and delivered personally, by email or sent by a nationally recognized overnight courier service, addressed to the Company, at 1901 W. 47th Place, Kansas City, KS 66205, Attention: Shane J. Schaffer, CEO, email address: sschaffer@cingulate.com, or such other email address or address as the Company may specify for such purposes by notice to the Holder. Any and all notices or other communications or deliveries to be provided by the Company hereunder shall be in writing and delivered personally, by email, or sent by a nationally recognized overnight courier service addressed to the Holder at the email address or address of the Holder appearing on the books of the Company. Any notice or other communication or deliveries hereunder shall be deemed given and effective on the earliest of (i) the time of transmission, if such notice or communication is delivered via email at the email address set forth in this Section prior to 5:30 p.m. (New York City time) on any date, (ii) the next Trading Day after the time of transmission, if such notice or communication is delivered via email at the email address set forth in this Section on a day that is not a Trading Day or later than 5:30 p.m. (New York City time) on any Trading Day, (iii) the second Trading Day following the date of mailing, if sent by U.S. nationally recognized overnight courier service, or (iv) upon actual receipt by the party to whom such notice is required to be given. To the extent that any notice provided by the Company hereunder constitutes, or contains, material, non-public information regarding the Company or any subsidiaries, the Company shall simultaneously file such notice with the Commission pursuant to a Current Report on Form 8-K.

i) Limitation of Liability. No provision hereof, in the absence of any affirmative action by the Holder to exercise this Warrant to purchase Warrant Shares, and no enumeration herein of the rights or privileges of the Holder, shall give rise to any liability of the Holder for the purchase price of any Common Stock or as a stockholder of the Company, whether such liability is asserted by the Company or by creditors of the Company.

j) Remedies. The Holder, in addition to being entitled to exercise all rights granted by law, including recovery of damages, will be entitled to specific performance of its rights under this Warrant. The Company agrees that monetary damages would not be adequate compensation for any loss incurred by reason of a breach by it of the provisions of this Warrant and hereby agrees to waive and not to assert the defense in any action for specific performance that a remedy at law would be adequate.

k) Successors and Assigns. Subject to applicable securities laws, this Warrant and the rights and obligations evidenced hereby shall inure to the benefit of and be binding upon the successors and permitted assigns of the Company and the successors and permitted assigns of Holder. The provisions of this Warrant are intended to be for the benefit of any Holder from time to time of this Warrant and shall be enforceable by such Holder or holder of Warrant Shares.

l) Amendment. This Warrant may be modified or amended or the provisions hereof waived with the written consent of the Company, on the one hand and the Holder, on the other hand.

m) Severability. Wherever possible, each provision of this Warrant shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Warrant shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions or the remaining provisions of this Warrant.

n) Headings. The headings used in this Warrant are for the convenience of reference only and shall not, for any purpose, be deemed a part of this Warrant.

o) Electronic Signatures. Electronically scanned and transmitted signatures, including by email attachment, shall be deemed originals for all purposes of this Warrant.

(Signature Page Follows)

IN WITNESS WHEREOF, the Company has caused this Warrant to be executed by its officer thereunto duly authorized as of the date first above indicated.

CINGULATE INC.

By: _____

Name: Shane J. Schaffer

Title: Chief Executive Officer

NOTICE OF EXERCISE

TO: CINGULATE INC.

(1) The undersigned hereby elects to purchase _____ Warrant Shares of the Company pursuant to the terms of the attached Warrant (only if exercised in full), and tenders herewith payment of the exercise price in full, together with all applicable transfer taxes, if any.

(2) Payment shall take the form of (check applicable box):

- ☐ in lawful money of the United States; or
- ☐ if permitted the cancellation of such number of Warrant Shares as is necessary, in accordance with the formula set forth in subsection 2(c), to exercise this Warrant with respect to the maximum number of Warrant Shares purchasable pursuant to the cashless exercise procedure set forth in subsection 2(c).

(3) Please issue said Warrant Shares in the name of the undersigned or in such other name as is specified below:

The Warrant Shares shall be delivered to the following DWAC Account Number:

[SIGNATURE OF HOLDER]

Name of Investing Entity: _____
Signature of Authorized Signatory of Investing Entity: _____
Name of Authorized Signatory: _____
Title of Authorized Signatory: _____
Date: _____

Annex B

ASSIGNMENT FORM

(To assign the foregoing Warrant, execute this form and supply required information. Do not use this form to exercise the Warrant to purchase shares.)

FOR VALUE RECEIVED, the foregoing Warrant and all rights evidenced thereby are hereby assigned to

Name: _____
(Please Print)

Address: _____
(Please Print)

Phone Number: _____

Email Address: _____

Dated: _____, _____

Holder’s Signature: _____

Holder’s Address: _____

SERIES A COMMON STOCK PURCHASE WARRANT

CINGULATE INC.

Warrant Shares: _____

Issue Date: _____, 2024

THIS SERIES A COMMON STOCK PURCHASE WARRANT (the “Warrant”) certifies that, for value received _____ or its assigns (the “Holder”) is entitled, upon the terms and subject to the limitations on exercise and the conditions hereinafter set forth, at any time on or after the [Stockholder Approval Date]¹ (the “Initial Exercise Date”) and on or prior to 5:00 p.m. (New York City time) on _____² (the “Termination Date”) but not thereafter, to subscribe for and purchase from Cingulate Inc., a Delaware corporation (the “Company”), up to _____ shares (as subject to adjustment hereunder, the “Warrant Shares”) of Common Stock. The purchase price of one share of Common Stock under this Warrant shall be equal to the Exercise Price, as defined in Section 2(b).

Section 1. Definitions. In addition to the terms defined elsewhere in this Warrant, the following terms have the meanings indicated in this Section 1:

“Affiliate” means any Person that, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with a Person, as such terms are used in and construed under Rule 405 under the Securities Act.

“Bid Price” means, for any date, the price determined by the first of the following clauses that applies: (a) if the Common Stock is then listed or quoted on a Trading Market, the bid price of the Common Stock for the time in question (or the nearest preceding date) on the Trading Market on which the Common Stock is then listed or quoted as reported by Bloomberg L.P. (“Bloomberg”) (based on a Trading Day from 9:30 a.m. (New York City time) to 4:02 p.m. (New York City time)), (b) if OTCQB or OTCQX is not a Trading Market, the volume weighted average price of the Common Stock for such date (or the nearest preceding date) on OTCQB or OTCQX as applicable, (c) if the Common Stock is not then listed or quoted for trading on OTCQB or OTCQX and if prices for the Common Stock are then reported on the Pink Open Market (or a similar organization or agency succeeding to its functions of reporting prices), the most recent bid price per share of the Common Stock so reported, or (d) in all other cases, the fair market value of a share of Common Stock as determined by an independent appraiser selected in good faith by the Holders of a majority in interest of the Warrants then outstanding and reasonably acceptable to the Company, the reasonable fees and expenses of which shall be paid by the Company.

¹ Replace bracketed language with “date hereof” if (i) the Per Share Purchase Price equals or exceeds the sum of (a) the applicable “Minimum Price” per share under Nasdaq rule 5635(d) and (b) \$0.125 per whole Common Warrant Share or (ii) if the Offering is treated as a public offering under Nasdaq rule 5635.

² Insert the date that is the five year anniversary of the Initial Exercise Date, provided that, if such date is not a Trading Day, insert the immediately following Trading Day.

“Board of Directors” means the board of directors of the Company.

“Commission” means the United States Securities and Exchange Commission.

“Common Stock” means the common stock of the Company, par value \$0.0001 per share, and any other class of securities into which such securities may hereafter be reclassified or changed.

“Common Stock Equivalents” means any securities of the Company or the Subsidiaries which would entitle the holder thereof to acquire at any time Common Stock, including, without limitation, any debt, preferred stock, right, option, warrant or other instrument that is at any time convertible into or exercisable or exchangeable for, or otherwise entitles the holder thereof to receive, Common Stock.

“Exchange Act” means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

“Person” means an individual or corporation, partnership, trust, incorporated or unincorporated association, joint venture, limited liability company, joint stock company, government (or an agency or subdivision thereof) or other entity of any kind.

“Registration Statement” means the effective registration statement on Form S-1 filed with Commission (File No. 333-276502), including all information, documents and exhibits filed with or incorporated by reference into such registration statement, as amended from time to time, which registers the sale the Warrants and the Warrant Shares, among others, and includes any Rule 462(b) Registration Statement.

“Securities Act” means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

[“Stockholder Approval” means such approval as may be required by the applicable rules and regulations of the Nasdaq Stock Market (or any successor entity) from the stockholders of the Company with respect to issuance of all of the Warrants and the Warrant Shares upon the exercise thereof.

“Stockholder Approval Date” means the date on which Stockholder Approval is received and deemed effective under Delaware law.]³

“Subsidiaries” means the subsidiaries of the Company set forth on Exhibit 21.1 to the Registration Statement and shall, where applicable, also include any direct or indirect subsidiary of the Company formed or acquired after the date hereof.

“Trading Day” means a day on which the Common Stock is traded on a Trading Market.

³Delete bracketed language if (i) the Per Share Purchase Price equals or exceeds the sum of (a) the applicable “Minimum Price” per share under Nasdaq rule 5635(d) and (b) \$0.125 per whole Common Warrant Share or (ii) if the Offering is treated as a public offering under Nasdaq rule 5635.

“Trading Market” means any of the following markets or exchanges on which the Common Stock is listed or quoted for trading on the date in question: the NYSE American, the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market or the New York Stock Exchange (or any successors to any of the foregoing).

“Transfer Agent” means Computershare Trust Company, N.A., the current transfer agent of the Company, with a mailing address of 480 Washington Blvd 26th Floor, Jersey City, NJ 07310, and any successor transfer agent of the Company.

“VWAP” means, for any date, the price determined by the first of the following clauses that applies: (a) if the Common Stock is then listed or quoted on a Trading Market, the daily volume weighted average price of the Common Stock for such date (or the nearest preceding date) on the Trading Market on which the Common Stock is then listed or quoted as reported by Bloomberg (based on a Trading Day from 9:30 a.m. (New York City time) to 4:02 p.m. (New York City time)), (b) if OTCQB or OTCQX is not a Trading Market, the volume weighted average price of the Common Stock for such date (or the nearest preceding date) on OTCQB or OTCQX as applicable, (c) if the Common Stock is not then listed or quoted for trading on OTCQB or OTCQX and if prices for the Common Stock are then reported on The Pink Open Market (or a similar organization or agency succeeding to its functions of reporting prices), the most recent bid price per share of the Common Stock so reported, or (d) in all other cases, the fair market value of a share of Common Stock as determined by an independent appraiser selected in good faith by the Holders of a majority in interest of the Warrants then outstanding and reasonably acceptable to the Company, the reasonable fees and expenses of which shall be paid by the Company.

“Warrants” means this Warrant and other Common Stock purchase warrants issued by the Company pursuant to the Registration Statement.

Section 2. Exercise.

a) Exercise of Warrant. Exercise of the purchase rights represented by this Warrant may be made, in whole or in part, at any time or times on or after the Initial Exercise Date and on or before the Termination Date by delivery to the Company of a duly executed PDF copy submitted by e-mail (or e-mail attachment) of the Notice of Exercise in the form attached hereto as Annex A (the “Notice of Exercise”). Within the earlier of (i) two (2) Trading Days and (ii) the number of Trading Days comprising the Standard Settlement Period (as defined in Section 2(d)(i) herein) following the date of exercise as aforesaid, the Holder shall deliver the aggregate Exercise Price for the Warrant Shares specified in the applicable Notice of Exercise by wire transfer or cashier’s check drawn on a United States bank, in either case in immediately available funds, unless the cashless exercise procedure specified in Section 2(c) below is specified in the applicable Notice of Exercise. No ink-original Notice of Exercise shall be required, nor shall any medallion guarantee (or other type of guarantee or notarization) of any Notice of Exercise be required. The Company shall have no obligation to inquire with respect to or otherwise confirm the authenticity of the signature(s) contained on any Notice of Exercise nor the authority of the person so executing such Notice of Exercise. Notwithstanding anything herein to the contrary, the Holder shall not be required to physically surrender this Warrant to the Company until the Holder has purchased all of the Warrant Shares available hereunder and the Warrant has been exercised in full, in which case, the Holder shall surrender this Warrant to the Company for cancellation within three (3) Trading Days of the date on which the final Notice of Exercise is delivered to the Company. Partial exercises of this Warrant resulting in purchases of a portion of the total number of Warrant Shares available hereunder shall have the effect of lowering the outstanding number of Warrant Shares purchasable hereunder in an amount equal to the applicable number of Warrant Shares purchased. The Holder and the Company shall maintain records showing the number of Warrant Shares purchased and the date of such purchases. The Company shall deliver any objection to any Notice of Exercise within one (1) Trading Day of receipt of such notice. **The Holder and any assignee, by acceptance of this Warrant, acknowledge and agree that, by reason of the provisions of this paragraph, following the purchase of a portion of the Warrant Shares hereunder, the number of Warrant Shares available for purchase hereunder at any given time may be less than the amount stated on the face hereof.**

b) Exercise Price. The exercise price per share of Common Stock under this Warrant shall be \$____, subject to adjustment hereunder (the “Exercise Price”).

c) Cashless Exercise. If at the time of exercise hereof there is no effective registration statement registering, or the prospectus contained therein is not available for the issuance of the Warrant Shares by the Holder, then this Warrant may also be exercised, in whole or in part, at such time by means of a “cashless exercise” in which the Holder shall be entitled to receive a number of Warrant Shares equal to the quotient obtained by dividing [(A-B) (X)] by (A), where:

(A) = as applicable: (i) the VWAP on the Trading Day immediately preceding the date of the applicable Notice of Exercise if such Notice of Exercise is (1) both executed and delivered pursuant to Section 2(a) hereof on a day that is not a Trading Day or (2) both executed and delivered pursuant to Section 2(a) hereof on a Trading Day prior to the opening of “regular trading hours” (as defined in Rule 600(b) of Regulation NMS promulgated under the federal securities laws) on such Trading Day, (ii) at the option of the Holder, either (y) the VWAP on the Trading Day immediately preceding the date of the applicable Notice of Exercise or (z) the Bid Price of the Common Stock on the principal Trading Market as reported by Bloomberg as of the time of the Holder’s execution of the applicable Notice of Exercise if such Notice of Exercise is executed during “regular trading hours” on a Trading Day and is delivered within two (2) hours thereafter (including until two (2) hours after the close of “regular trading hours” on a Trading Day) pursuant to Section 2(a) hereof or (iii) the VWAP on the date of the applicable Notice of Exercise if the date of such Notice of Exercise is a Trading Day and such Notice of Exercise is both executed and delivered pursuant to Section 2(a) hereof after the close of “regular trading hours” on such Trading Day;

(B) = the Exercise Price of this Warrant, as adjusted hereunder; and

(X) = the number of Warrant Shares that would be issuable upon exercise of this Warrant in accordance with the terms of this Warrant if such exercise were by means of a cash exercise rather than a cashless exercise.

If Warrant Shares are issued in such a cashless exercise, the parties acknowledge and agree that in accordance with Section 3(a)(9) of the Securities Act, the Warrant Shares shall take on the registered characteristics of the Warrants being exercised. The Company agrees not to take any position contrary to this Section 2(c).

d) Mechanics of Exercise.

i. Delivery of Warrant Shares Upon Exercise. The Company shall cause the Warrant Shares purchased hereunder to be transmitted by the Transfer Agent to the Holder by crediting the account of the Holder's or its designee's balance account with the Depository Trust Company through its Deposit or Withdrawal at Custodian system ("DWAC") if the Company's transfer agent is then a participant in such system and either (A) there is an effective registration statement permitting the issuance of the Warrant Shares to or resale of the Warrant Shares by the Holder or (B) this Warrant is being exercised via cashless exercise, and otherwise by physical delivery of a certificate, registered in the Company's share register in the name of the Holder or its designee, for the number of Warrant Shares to which the Holder is entitled pursuant to such exercise to the address specified by the Holder in the Notice of Exercise by the date that is the earliest of (i) two (2) Trading Days after the delivery to the Company of the Notice of Exercise, (ii) one (1) Trading Day after delivery of the aggregate Exercise Price to the Company and (iii) the number of Trading Days comprising the Standard Settlement Period after the delivery to the Company of the Notice of Exercise (such date, the "Warrant Share Delivery Date"). Upon delivery of the Notice of Exercise, the Holder shall be deemed for all corporate purposes to have become the holder of record of the Warrant Shares with respect to which this Warrant has been exercised, irrespective of the date of delivery of the Warrant Shares, provided that payment of the aggregate Exercise Price (other than in the case of a cashless exercise) is received within the earlier of (i) two (2) Trading Days and (ii) the number of Trading Days comprising the Standard Settlement Period following delivery of the Notice of Exercise. If the Company fails for any reason to deliver to the Holder the Warrant Shares subject to a Notice of Exercise by the Warrant Share Delivery Date, the Company shall pay to the Holder, in cash, as liquidated damages and not as a penalty, for each \$1,000 of Warrant Shares subject to such exercise (based on the VWAP of the Common Stock on the date of the applicable Notice of Exercise), \$10 per Trading Day (increasing to \$20 per Trading Day on the third Trading Day after the Warrant Share Delivery Date) for each Trading Day after such Warrant Share Delivery Date until such Warrant Shares are delivered or Holder rescinds such exercise. The Company agrees to maintain a transfer agent that is a participant in the FAST program so long as this Warrant remains outstanding and exercisable. As used herein, "Standard Settlement Period" means the standard settlement period, expressed in a number of Trading Days, on the Company's primary Trading Market with respect to the Common Stock as in effect on the date of the delivery of the Notice of Exercise.

ii. Delivery of New Warrants Upon Exercise. If this Warrant shall have been exercised in part, the Company shall, at the request of a Holder and upon surrender of this Warrant, at the time of delivery of the Warrant Shares, deliver to the Holder a new Warrant evidencing the rights of the Holder to purchase the unpurchased Warrant Shares remaining available under this Warrant, which new Warrant shall in all other respects be identical with this Warrant.

iii. Rescission Rights. If the Company fails to cause the Transfer Agent to transmit to the Holder the Warrant Shares pursuant to Section 2(d)(i) by the Warrant Share Delivery Date, then the Holder will have the right to rescind such exercise.

iv. Compensation for Buy-In on Failure to Timely Deliver Warrant Shares Upon Exercise. In addition to any other rights available to the Holder, if the Company fails to cause the Transfer Agent to transmit to the Holder the Warrant Shares in accordance with the provisions of Section 2(d)(i) above pursuant to an exercise on or before the Warrant Share Delivery Date, and if after such date the Holder is required by its broker to purchase (in an open market transaction or otherwise) or the Holder's brokerage firm otherwise purchases, shares of Common Stock to deliver in satisfaction of a sale by the Holder of the Warrant Shares which the Holder anticipated receiving upon such exercise (a "Buy-In"), then the Company shall (A) pay in cash to the Holder the amount, if any, by which (x) the Holder's total purchase price (including reasonable and customary brokerage commissions, if any) for the shares of Common Stock so purchased exceeds (y) the amount obtained by multiplying (1) the number of Warrant Shares that the Company was required to deliver to the Holder in connection with the exercise at issue times (2) the price at which the sell order giving rise to such purchase obligation was executed, and (B) at the option of the Holder, either reinstate the portion of the Warrant and equivalent number of Warrant Shares for which such exercise was not honored (in which case such exercise shall be deemed rescinded) or deliver to the Holder the number of shares of Common Stock that would have been issued had the Company timely complied with its exercise and delivery obligations hereunder. For example, if the Holder purchases Common Stock having a total purchase price of \$11,000 to cover a Buy-In with respect to an attempted exercise of shares of Common Stock with an aggregate sale price giving rise to such purchase obligation of \$10,000, under clause (A) of the immediately preceding sentence the Company shall be required to pay the Holder \$1,000. The Holder shall provide the Company written notice indicating the amounts payable to the Holder in respect of the Buy-In and, upon request of the Company, evidence of the amount of such loss. Nothing herein shall limit a Holder's right to pursue any other remedies available to it hereunder, at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief with respect to the Company's failure to timely deliver shares of Common Stock upon exercise of the Warrant as required pursuant to the terms hereof.

v. No Fractional Shares or Scrip. No fractional shares or scrip representing fractional shares shall be issued upon the exercise of this Warrant. As to any fraction of a share which the Holder would otherwise be entitled to purchase upon such exercise, the Company shall, at its election, either pay a cash adjustment in respect of such final fraction in an amount equal to such fraction multiplied by the Exercise Price or round up to the next whole share.

vi. Charges, Taxes and Expenses. Issuance of Warrant Shares shall be made without charge to the Holder for any issue or transfer tax or other incidental expense in respect of the issuance of such Warrant Shares, all of which taxes and expenses shall be paid by the Company, and such Warrant Shares shall be issued in the name of the Holder or in such name or names as may be directed by the Holder; provided, however, that in the event that Warrant Shares are to be issued in a name other than the name of the Holder, this Warrant when surrendered for exercise shall be accompanied by the assignment form attached hereto as Annex B (the "Assignment Form") duly executed by the Holder and the Company may require, as a condition thereto, the payment of a sum sufficient to reimburse it for any transfer tax incidental thereto. The Company shall pay all Transfer Agent fees required for same-day processing of any Notice of Exercise and all fees to the Depository Trust Company (or another established clearing corporation performing similar functions) required for same-day electronic delivery of the Warrant Shares.

vii. Closing of Books. The Company will not close its stockholder books or records in any manner which prevents the timely exercise of this Warrant, pursuant to the terms hereof.

e) Beneficial Ownership Limitations. The Company shall not effect any exercise of this Warrant, and a Holder shall not have the right to exercise any portion of this Warrant, pursuant to Section 2 or otherwise, to the extent that after giving effect to such issuance after exercise as set forth on the applicable Notice of Exercise, the Holder (together with the Holder's Affiliates, and any other Persons acting as a group together with the Holder or any of the Holder's Affiliates (such Persons, "Attribution Parties")), would beneficially own in excess of the Beneficial Ownership Limitation (as defined below). For purposes of the foregoing sentence, the number of shares of Common Stock beneficially owned by the Holder and its Affiliates and Attribution Parties shall include the number of shares of Common Stock issuable upon exercise of this Warrant with respect to which such determination is being made, but shall exclude the number of shares of Common Stock which would be issuable upon (i) exercise of the remaining, nonexercised portion of this Warrant beneficially owned by the Holder or any of its Affiliates or Attribution Parties and (ii) exercise or conversion of the unexercised or nonconverted portion of any other securities of the Company (including, without limitation, any other Common Stock Equivalents) subject to a limitation on conversion or exercise analogous to the limitation contained herein beneficially owned by the Holder or any of its Affiliates or Attribution Parties. Except as set forth in the preceding sentence, for purposes of this Section 2(e), beneficial ownership shall be calculated in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder, it being acknowledged by the Holder that the Company is not representing to the Holder that such calculation is in compliance with Section 13(d) of the Exchange Act and the Holder is solely responsible for any schedules required to be filed in accordance therewith and the calculations required under this Section 2(e). To the extent that the limitation contained in this Section 2(e) applies, the determination of whether this Warrant is exercisable (in relation to other securities owned by the Holder together with any Affiliates and Attribution Parties) and of which portion of this Warrant is exercisable shall be in the sole discretion of the Holder, and the submission of a Notice of Exercise shall be deemed to be the Holder's determination of whether this Warrant is exercisable (in relation to other securities owned by the Holder together with any Affiliates and Attribution Parties) and of which portion of this Warrant is exercisable, in each case subject to the Beneficial Ownership Limitation, and the Company shall have no obligation to verify or confirm the accuracy of such determination. In addition, a determination as to any group status as contemplated above shall be determined in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder. For purposes of this Section 2(e), in determining the number of outstanding shares of Common Stock, a Holder may rely on the number of outstanding shares of Common Stock as reflected in (A) the Company's most recent periodic or annual report filed with the Commission, as the case may be, (B) a more recent public announcement by the Company or (C) a more recent written notice by the Company or the Transfer Agent setting forth the number of shares of Common Stock outstanding. Upon the written or oral request of a Holder, the Company shall within one (1) Trading Day confirm orally and in writing to the Holder the number of shares of Common Stock then outstanding. In any case, the number of outstanding shares of Common Stock shall be determined after giving effect to the conversion or exercise of securities of the Company, including this Warrant, by the Holder or its Affiliates or Attribution Parties since the date as of which such number of outstanding shares of Common Stock was reported. The "Beneficial Ownership Limitation" shall be $[4.99\%]/[9.99]$ of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock issuable upon exercise of this Warrant. The Holder, upon notice to the Company, may increase or decrease the Beneficial Ownership Limitation provisions of this Section 2(e), provided that the Beneficial Ownership Limitation in no event exceeds 9.99% of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock upon exercise of this Warrant held by the Holder and the provisions of this Section 2(e) shall continue to apply. Any increase in the Beneficial Ownership Limitation will not be effective until the 61st day after such notice is delivered to the Company. The provisions of this Section 2(e) shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this Section 2(e) to correct this Section 2(e) (or any portion hereof) which may be defective or inconsistent with the intended Beneficial Ownership Limitation herein contained or to make changes or supplements necessary or desirable to properly give effect to such limitation. The limitations contained in this Section 2(e) shall apply to a successor holder of this Warrant.

Section 3. Certain Adjustments.

a) Stock Dividends and Splits. If the Company, at any time while this Warrant is outstanding: (i) pays a stock dividend or otherwise makes a distribution or distributions on shares of its Common Stock or any other equity or equity equivalent securities payable in shares of Common Stock (which, for avoidance of doubt, shall not include any shares of Common Stock issued by the Company upon exercise of this Warrant), (ii) subdivides outstanding shares of Common Stock into a larger number of shares, (iii) combines (including by way of reverse stock split) outstanding shares of Common Stock into a smaller number of shares, or (iv) issues by reclassification of shares of the Common Stock any shares of capital stock of the Company, then in each case the Exercise Price shall be multiplied by a fraction of which the numerator shall be the number of shares of Common Stock (excluding treasury shares, if any) outstanding immediately before such event and of which the denominator shall be the number of shares of Common Stock outstanding immediately after such event, and the number of shares issuable upon exercise of this Warrant shall be proportionately adjusted such that the aggregate Exercise Price of this Warrant shall remain unchanged. Any adjustment made pursuant to this Section 3(a) shall become effective immediately after the record date for the determination of stockholders entitled to receive such dividend or distribution and shall become effective immediately after the effective date in the case of a subdivision, combination or reclassification.

b) Subsequent Rights Offerings. In addition to any adjustments pursuant to Section 3(a) above, if at any time while this Warrant is outstanding the Company grants, issues or sells any Common Stock Equivalents or rights to purchase stock, warrants, securities or other property pro rata to the record holders of any class of shares of Common Stock (the "Purchase Rights"), then the Holder will be entitled to acquire, upon the terms applicable to such Purchase Rights, the aggregate Purchase Rights which the Holder could have acquired if the Holder had held the number of shares of Common Stock acquirable upon complete exercise of this Warrant (without regard to any limitations on exercise hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date on which a record is taken for the grant, issuance or sale of such Purchase Rights, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the grant, issue or sale of such Purchase Rights (provided, however, that to the extent that the Holder's right to participate in any such Purchase Right would result in the Holder exceeding the Beneficial Ownership Limitation, then the Holder shall not be entitled to participate in such Purchase Right to such extent (or beneficial ownership of such shares of Common Stock as a result of such Purchase Right to such extent) and such Purchase Right to such extent shall be held in abeyance for the Holder until such time, if ever, as its right thereto would not result in the Holder exceeding the Beneficial Ownership Limitation); provided, that such Purchase Right shall terminate on, and shall not be held in abeyance for any period subsequent to the Termination Date.

c) Pro Rata Distributions. During such time as this Warrant is outstanding, if the Company shall declare or make any dividend or other distribution of its assets (or rights to acquire its assets) to holders of shares of Common Stock, by way of return of capital or otherwise (including, without limitation, any distribution of cash, stock or other securities, property or options by way of a dividend, spin off, reclassification, corporate rearrangement, scheme of arrangement or other similar transaction) (a "Distribution"), at any time after the issuance of this Warrant, then, in each such case, the Holder shall be entitled to participate in such Distribution to the same extent that the Holder would have participated therein if the Holder had held the number of shares of Common Stock acquirable upon complete exercise of this Warrant (without regard to any limitations on exercise hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date of which a record is taken for such Distribution, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the participation in such Distribution (provided, however, that to the extent that the Holder's right to participate in any such Distribution would result in the Holder exceeding the Beneficial Ownership Limitation, then the Holder shall not be entitled to participate in such Distribution to such extent (or in the beneficial ownership of any shares of Common Stock as a result of such Distribution to such extent) and the portion of such Distribution shall be held in abeyance for the benefit of the Holder until such time, if ever, as its right thereto would not result in the Holder exceeding the Beneficial Ownership Limitation); provided, that such Purchase Right shall terminate on, and shall not be held in abeyance for any period subsequent to the Termination Date.

d) Fundamental Transaction. If, at any time while this Warrant is outstanding, (i) the Company (and all of its Subsidiaries, taken as a whole), directly or indirectly, in one or more related transactions effects any merger or consolidation of the Company with or into another Person (other than for the purpose of changing the Company's name and/or the jurisdiction of incorporation of the Company or a holding company for the Company), (ii) the Company, directly or indirectly, effects any sale, lease, license, assignment, transfer, conveyance or other disposition of all or substantially all of its assets in one or a series of related transactions, (iii) any, direct or indirect, purchase offer, tender offer or exchange offer (whether by the Company or another Person) is completed pursuant to which holders of the outstanding equity securities of the Company having voting power, including the power to vote on the election of directors of the Company, are permitted to sell, tender or exchange their securities for other securities, cash or property and has been accepted by the holders of the outstanding securities representing more than 50% of the aggregate voting power, including the power to vote on the election of directors of the Company, of the issued and outstanding equity securities of the Company, (iv) the Company, directly or indirectly, in one or more related transactions effects any reclassification, reorganization or recapitalization of the Common Stock or any compulsory share exchange pursuant to which the Common Stock is effectively converted into or exchanged for other securities, cash or property, or (v) the Company, directly or indirectly, in one or more related transactions consummates a stock or share purchase agreement or other business combination (including, without limitation, a reorganization, recapitalization, spin-off, merger or scheme of arrangement) with another Person or group of Persons whereby such other Person or group acquires securities representing more than 50% of the aggregate voting power, including the power to vote on the election of directors of the Company, of the issued and outstanding equity securities of the Company (each a "Fundamental Transaction"), then, upon any subsequent exercise of this Warrant, the Holder shall have the right to receive, for each Warrant Share that would have been issuable upon such exercise immediately prior to the occurrence of such Fundamental Transaction, at the option of the Holder (without regard to any limitation in Section 2(d) on the exercise of this Warrant), the number of shares of Common Stock of the successor or acquiring corporation or of the Company, if it is the surviving corporation, and any additional consideration (the "Alternate Consideration") receivable as a result of such Fundamental Transaction by a holder of the number of shares of Common Stock for which this Warrant is exercisable immediately prior to such Fundamental Transaction (without regard to any limitation in Section 2(e) on the exercise of this Warrant). For purposes of any such exercise, the determination of the Exercise Price shall be appropriately adjusted to apply to such Alternate Consideration based on the amount of Alternate Consideration issuable in respect of one share of Common Stock in such Fundamental Transaction, and the Company shall apportion the Exercise Price among the Alternate Consideration in a reasonable manner reflecting the relative value of any different components of the Alternate Consideration. If holders of Common Stock are given any choice as to the securities, cash or property to be received in a Fundamental Transaction, then the Holder shall be given the same choice as to the Alternate Consideration it receives upon any exercise of this Warrant following such Fundamental Transaction. Notwithstanding anything to the contrary, in the event of a Fundamental Transaction (other than (x) any stock split or reverse stock split, (y) any transaction effected solely for the purpose of changing the jurisdiction of incorporation of the Company, or (z) any holding company reorganization or parent-subsidiary merger not requiring stockholder approval pursuant to Sections 251(g) or 253 of the Delaware General Corporation Law (or any successor provisions thereof)), and for the avoidance of doubt, the Fundamental Transaction is approved by the Company's board of directors and within the control of the Company, the Company or any Successor Entity (as defined below) shall, at the Holder's option, exercisable at any time concurrently with, or within 30 days after, the consummation of the Fundamental Transaction (or, if later, the date of the public announcement of the applicable Fundamental Transaction), purchase this Warrant from the Holder by paying to the Holder an amount of cash equal to the Black Scholes Value (as defined below) of the remaining unexercised portion of this Warrant on the date of the consummation of such Fundamental Transaction; provided, however, if the Fundamental Transaction is not within the Company's control, including not approved by the Company's Board of Directors, Holder shall only be entitled to receive from the Company or any Successor Entity, as of the date of consummation of such Fundamental Transaction, the same type or form of consideration (and in the same proportion), at the Black Scholes Value of the unexercised portion of this Warrant, that is being offered and paid to the holders of Common Stock of the Company in connection with the Fundamental Transaction, whether that consideration be in the form of cash, stock or any combination thereof, or whether the holders of Common Stock are given the choice to receive from among alternative forms of consideration in connection with the Fundamental Transaction; provided, further, that if holders of Common Stock of the Company are not offered or paid any consideration in such Fundamental Transaction, such holders of Common Stock will be deemed to have received common stock of the Successor Entity (which Successor Entity may be the Company following such Fundamental Transaction) in such Fundamental Transaction. "Black Scholes Value" means the value of this Warrant based on the Black Scholes Option Pricing Model obtained from the "OV" function on Bloomberg determined as of the day of consummation of the applicable Fundamental Transaction for pricing purposes and reflecting (A) a risk-free interest rate corresponding to the U.S. Treasury rate for a period equal to the time between the date of the public announcement of the applicable Fundamental Transaction and the Termination Date, (B) an expected volatility equal to the 100 day volatility obtained from the HVT function on Bloomberg (determined utilizing a 365-day annualization factor) as of the Trading Day immediately following the public announcement of the applicable Fundamental Transaction, (C) the underlying price per share used in such calculation shall be the sum of the price per share being offered in cash, if any, plus the value of any non-cash consideration, if any, being offered in such Fundamental Transaction, (D) a remaining option time equal to the time between the date of the public announcement of the applicable Fundamental Transaction and the Termination Date and (E) a zero cost of borrow. The payment of the Black Scholes Value will be made by wire transfer of immediately available funds within five (5) Trading Days of the Holder's election (or, if later, on the effective date of the Fundamental Transaction). The Company shall require any successor entity in a Fundamental Transaction in which the Company is not the survivor (the "Successor Entity") to assume in writing all of the obligations of the Company under this Warrant and the other Transaction Documents in accordance with the provisions of this Section 3(d) pursuant to written agreements in form and substance reasonably satisfactory to the Holder and approved by the Holder (without unreasonable delay) prior to such Fundamental Transaction and shall, at the option of the Holder, deliver to the Holder in exchange for this Warrant a security of the Successor Entity evidenced by a written instrument substantially similar in form and substance to this Warrant which is exercisable for a corresponding number of shares of capital stock of such Successor Entity (or its parent entity) equivalent to the shares of Common Stock acquirable and receivable upon exercise of this Warrant (without regard to any limitations on the exercise of this Warrant) prior to such Fundamental Transaction, and with an exercise price which applies the exercise price hereunder to such shares of capital stock (but taking into account the relative value of the shares of Common Stock pursuant to such Fundamental Transaction and the value of such shares of capital stock, such number of shares of capital stock and such exercise price being for the purpose of protecting the economic value of this Warrant immediately prior to the consummation of such Fundamental Transaction), and which is reasonably satisfactory in form and substance to the Holder. Upon the occurrence of any such Fundamental Transaction, the Successor Entity shall succeed to, and be substituted for (so that from and after the date of such Fundamental Transaction, the provisions of this Warrant and the other Transaction Documents referring to the "Company" shall refer instead to the Successor Entity), and may exercise every right and power of the Company and shall assume all of the obligations of the Company under this Warrant and the other Transaction Documents with the same effect as if such Successor Entity had been named as the Company herein. For the avoidance of doubt, the Holder shall be entitled to the benefits of the provisions of this Section 3(e) regardless of whether the Company has sufficient authorized shares of Common Stock for the issuance of Warrant Shares.

e) Calculations. All calculations under this Section 3 shall be made to the nearest cent or the nearest 1/100th of a share, as the case may be. For purposes of this Section 3, the number of shares of Common Stock deemed to be issued and outstanding as of a given date shall be the sum of the number of shares of Common Stock (excluding treasury shares, if any) issued and outstanding.

f) Notice to Holder.

i. Adjustment to Exercise Price. Whenever the Exercise Price is adjusted pursuant to any provision of this Section 3, the Company shall promptly deliver to the Holder by email a notice setting forth the Exercise Price after such adjustment and any resulting adjustment to the number of Warrant Shares and setting forth a brief statement of the facts requiring such adjustment.

ii. Notice to Allow Exercise by Holder. If (A) the Company shall declare a dividend (or any other distribution in whatever form) on the Common Stock, (B) the Company shall declare a special nonrecurring cash dividend on or a redemption of the Common Stock, (C) the Company shall authorize the granting to all holders of the Common Stock rights or warrants to subscribe for or purchase any shares of capital stock of any class or of any rights, (D) the approval of any stockholders of the Company shall be required in connection with any reclassification of the Common Stock, any consolidation or merger to which the Company (and all of its Subsidiaries, taken as a whole) is a party, any sale or transfer of all or substantially all of the assets of the Company, or any compulsory share exchange whereby the Common Stock is converted into other securities, cash or property, or (E) the Company shall authorize the voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Company, then, in each case, the Company shall cause to be delivered by email to the Holder at its last email or other address as it shall appear upon the Warrant Register of the Company, at least 20 calendar days prior to the applicable record or effective date hereinafter specified, a notice stating (x) the date on which a record is to be taken for the purpose of such dividend, distribution, redemption, rights or warrants, or if a record is not to be taken, the date as of which the holders of the Common Stock of record to be entitled to such dividend, distributions, redemption, rights or warrants are to be determined or (y) the date on which such reclassification, consolidation, merger, sale, transfer or share exchange is expected to become effective or close, and the date as of which it is expected that holders of the Common Stock of record shall be entitled to exchange their shares of the Common Stock for securities, cash or other property deliverable upon such reclassification, consolidation, merger, sale, transfer or share exchange; provided that the failure to deliver such notice or any defect therein or in the delivery thereof shall not affect the validity of the corporate action required to be specified in such notice. To the extent that any notice provided in this Warrant constitutes, or contains, material, non-public information regarding the Company or any of the Subsidiaries, the Company shall simultaneously file such notice with the Commission pursuant to a Current Report on Form 8-K. The Holder shall remain entitled to exercise this Warrant during the period commencing on the date of such notice to the effective date of the event triggering such notice except as may otherwise be expressly set forth herein.

Section 4. Transfer of Warrant.

a) Transferability. This Warrant and all rights hereunder (including, without limitation, any registration rights) are transferable, in whole or in part, upon surrender of this Warrant at the principal office of the Company or its designated agent, together with a written assignment of this Warrant substantially in the form attached hereto duly executed by the Holder or its agent or attorney and funds sufficient to pay any transfer taxes payable upon the making of such transfer. Upon such surrender and, if required, such payment, the Company shall execute and deliver a new Warrant or Warrants in the name of the assignee or assignees, as applicable, and in the denomination or denominations specified in such instrument of assignment, and shall issue to the assignor a new Warrant evidencing the portion of this Warrant not so assigned, and this Warrant shall promptly be cancelled. Notwithstanding anything herein to the contrary, the Holder shall not be required to physically surrender this Warrant to the Company unless the Holder has assigned this Warrant in full, in which case, the Holder shall surrender this Warrant to the Company within three (3) Trading Days of the date on which the Holder delivers a duly executed Assignment Form to the Company assigning this Warrant in full. The Warrant, if properly assigned in accordance herewith, may be exercised by a new holder for the purchase of Warrant Shares without having a new Warrant issued.

b) New Warrants. This Warrant may be divided or combined with other Warrants upon presentation hereof at the aforesaid office of the Company, together with a written notice specifying the names and denominations in which new Warrants are to be issued, signed by the Holder or its agent or attorney. Subject to compliance with Section 4(a), as to any transfer which may be involved in such division or combination, the Company shall execute and deliver a new Warrant or Warrants in exchange for the Warrant or Warrants to be divided or combined in accordance with such notice. All Warrants issued on transfers or exchanges shall be dated the initial issuance date of this Warrant and shall be identical with this Warrant except as to the number of Warrant Shares issuable pursuant thereto.

c) Warrant Register. The Company shall register this Warrant, upon records to be maintained by the Company for that purpose (the “Warrant Register”), in the name of the record Holder hereof from time to time. The Company may deem and treat the registered Holder of this Warrant as the absolute owner hereof for the purpose of any exercise hereof or any distribution to the Holder, and for all other purposes, absent actual notice to the contrary.

Section 5. Miscellaneous.

a) No Rights as Stockholder Until Exercise; No Settlement in Cash. This Warrant does not entitle the Holder to any voting rights, dividends or other rights as a stockholder of the Company prior to the exercise hereof as set forth in Section 2(d)(i), except as expressly set forth in Section 3. Without limiting any rights of a Holder to receive Warrant Shares on a “cashless exercise” pursuant to Section 2(c) or to receive cash payments pursuant to Section 2(d)(i) and Section 2(d)(iv) herein, in no event shall the Company be required to net cash settle an exercise of this Warrant.

b) Loss, Theft, Destruction or Mutilation of Warrant. The Company covenants that upon receipt by the Company of evidence reasonably satisfactory to it of the loss, theft, destruction or mutilation of this Warrant or any stock certificate relating to the Warrant Shares, and in case of loss, theft or destruction, of indemnity or security reasonably satisfactory to it (which, in the case of the Warrant, shall not include the posting of any bond), and upon surrender and cancellation of such Warrant or stock certificate, if mutilated, the Company will make and deliver a new Warrant or stock certificate of like tenor and dated as of such cancellation, in lieu of such Warrant or stock certificate.

c) Saturdays, Sundays, Holidays, etc. If the last or appointed day for the taking of any action or the expiration of any right required or granted herein shall not be a Trading Day, then such action may be taken or such right may be exercised on the next succeeding Trading Day.

d) Authorized Shares.

The Company covenants that during the period the Warrant is outstanding, it will reserve from its authorized and unissued Common Stock a sufficient number of shares to provide for the issuance of the Warrant Shares upon the exercise of any purchase rights under this Warrant. The Company further covenants that its issuance of this Warrant shall constitute full authority to its officers who are charged with the duty of issuing the necessary Warrant Shares upon the exercise of the purchase rights under this Warrant. The Company will take such reasonable action as may be necessary to assure that such Warrant Shares may be issued as provided herein without violation of any applicable law or regulation, or of any requirements of the Trading Market upon which the Common Stock may be listed. The Company covenants that all Warrant Shares which may be issued upon the exercise of the purchase rights represented by this Warrant will, upon exercise of the purchase rights represented by this Warrant and payment for such Warrant Shares in accordance herewith, be duly authorized, validly issued, fully paid and nonassessable and free from all taxes, liens and charges created by the Company in respect of the issue thereof (other than taxes in respect of any transfer occurring contemporaneously with such issue).

Except and to the extent as waived or consented to by the Holder, the Company shall not by any action, including, without limitation, amending its certificate of incorporation or through any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Warrant, but will at all times in good faith assist in the carrying out of all such terms and in the taking of all such actions as may be necessary or appropriate to protect the rights of Holder as set forth in this Warrant against impairment. Without limiting the generality of the foregoing, the Company will (i) not increase the par value of any Warrant Shares above the amount payable therefor upon such exercise immediately prior to such increase in par value, (ii) take such action as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and nonassessable Warrant Shares upon the exercise of this Warrant and (iii) use commercially reasonable efforts to obtain all such authorizations, exemptions or consents from any public regulatory body having jurisdiction thereof, as may be, necessary to enable the Company to perform its obligations under this Warrant.

Before taking any action which would result in an adjustment in the number of Warrant Shares for which this Warrant is exercisable or in the Exercise Price, the Company shall obtain all such authorizations or exemptions thereof, or consents thereto, as may be necessary from any public regulatory body or bodies having jurisdiction thereof.

e) Jurisdiction. All questions concerning the construction, validity, enforcement and interpretation of this Warrant shall be governed by and construed and enforced in accordance with the internal laws of the State of New York, without regard to the principles of conflicts of law thereof. The Company and, by accepting this Warrant, the Holder each agrees that all legal proceedings concerning the interpretations, enforcement and defense of the transactions contemplated by this Warrant (whether brought against the Company or the Holder or their respective affiliates, directors, officers, shareholders, partners, members, employees or agents) shall be commenced exclusively in the state and federal courts sitting in the City of New York. The Company and, by accepting this Warrant, the Holder each hereby irrevocably submits to the exclusive jurisdiction of the state and federal courts sitting in the City of New York, Borough of Manhattan for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein, and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of any such court, that such suit, action or proceeding is improper or is an inconvenient venue for such proceeding. The Company and, by accepting this Warrant, the Holder each hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a copy thereof via registered or certified mail or overnight delivery (with evidence of delivery) to it at the address in effect for notices to it under this Warrant and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any other manner permitted by law. If the Company or the Holder shall commence an action, suit or proceeding to enforce any provisions of this Warrant, the prevailing party in such action, suit or proceeding shall be reimbursed by the other party for their reasonable attorneys' fees and other costs and expenses incurred with the investigation, preparation and prosecution of such action or proceeding.

f) Restrictions. The Holder acknowledges that the Warrant Shares acquired upon the exercise of this Warrant, if not registered, and the Holder does not utilize cashless exercise, will have restrictions upon resale imposed by state and federal securities laws.

g) Nonwaiver and Expenses. No course of dealing or any delay or failure to exercise any right hereunder on the part of Holder shall operate as a waiver of such right or otherwise prejudice the Holder's rights, powers or remedies. Without limiting any other provision of this Warrant, if the Company willfully and knowingly fails to comply with any provision of this Warrant, which results in any material damages to the Holder, the Company shall pay to the Holder such amounts as shall be sufficient to cover any costs and expenses including, but not limited to, reasonable attorneys' fees, including those of appellate proceedings, incurred by the Holder in collecting any amounts due pursuant hereto or in otherwise enforcing any of its rights, powers or remedies hereunder.

h) Notices. Any and all notices or other communications or deliveries to be provided by the Holder hereunder including, without limitation, any Notice of Exercise, shall be in writing and delivered personally, by email or sent by a nationally recognized overnight courier service, addressed to the Company, at 1901 W. 47th Place, Kansas City, KS 66205, Attention: Shane J. Schaffer, CEO, email address: sschaffer@cingulate.com, or such other email address or address as the Company may specify for such purposes by notice to the Holder. Any and all notices or other communications or deliveries to be provided by the Company hereunder shall be in writing and delivered personally, by email, or sent by a nationally recognized overnight courier service addressed to the Holder at the email address or address of the Holder appearing on the books of the Company. Any notice or other communication or deliveries hereunder shall be deemed given and effective on the earliest of (i) the time of transmission, if such notice or communication is delivered via email at the email address set forth in this Section prior to 5:30 p.m. (New York City time) on any date, (ii) the next Trading Day after the time of transmission, if such notice or communication is delivered via email at the email address set forth in this Section on a day that is not a Trading Day or later than 5:30 p.m. (New York City time) on any Trading Day, (iii) the second Trading Day following the date of mailing, if sent by U.S. nationally recognized overnight courier service, or (iv) upon actual receipt by the party to whom such notice is required to be given. To the extent that any notice provided by the Company hereunder constitutes, or contains, material, non-public information regarding the Company or any subsidiaries, the Company shall simultaneously file such notice with the Commission pursuant to a Current Report on Form 8-K.

i) Limitation of Liability. No provision hereof, in the absence of any affirmative action by the Holder to exercise this Warrant to purchase Warrant Shares, and no enumeration herein of the rights or privileges of the Holder, shall give rise to any liability of the Holder for the purchase price of any Common Stock or as a stockholder of the Company, whether such liability is asserted by the Company or by creditors of the Company.

j) Remedies. The Holder, in addition to being entitled to exercise all rights granted by law, including recovery of damages, will be entitled to specific performance of its rights under this Warrant. The Company agrees that monetary damages would not be adequate compensation for any loss incurred by reason of a breach by it of the provisions of this Warrant and hereby agrees to waive and not to assert the defense in any action for specific performance that a remedy at law would be adequate.

k) Successors and Assigns. Subject to applicable securities laws, this Warrant and the rights and obligations evidenced hereby shall inure to the benefit of and be binding upon the successors and permitted assigns of the Company and the successors and permitted assigns of Holder. The provisions of this Warrant are intended to be for the benefit of any Holder from time to time of this Warrant and shall be enforceable by such Holder or holder of Warrant Shares.

l) Amendment. This Warrant may be modified or amended or the provisions hereof waived with the written consent of the Company, on the one hand and the Holder, on the other hand.

m) Severability. Wherever possible, each provision of this Warrant shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Warrant shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions or the remaining provisions of this Warrant.

n) Headings. The headings used in this Warrant are for the convenience of reference only and shall not, for any purpose, be deemed a part of this Warrant.

o) Electronic Signatures. Electronically scanned and transmitted signatures, including by email attachment, shall be deemed originals for all purposes of this Warrant.

(Signature Page Follows)

IN WITNESS WHEREOF, the Company has caused this Warrant to be executed by its officer thereunto duly authorized as of the date first above indicated.

CINGULATE INC.

By: _____

Name: Shane J. Schaffer

Title: Chief Executive Officer

NOTICE OF EXERCISE

TO: CINGULATE INC.

(1) The undersigned hereby elects to purchase _____ Warrant Shares of the Company pursuant to the terms of the attached Warrant (only if exercised in full), and tenders herewith payment of the exercise price in full, together with all applicable transfer taxes, if any.

(2) Payment shall take the form of (check applicable box):

- ☐ in lawful money of the United States; or
- ☐ if permitted the cancellation of such number of Warrant Shares as is necessary, in accordance with the formula set forth in subsection 2(c), to exercise this Warrant with respect to the maximum number of Warrant Shares purchasable pursuant to the cashless exercise procedure set forth in subsection 2(c).

(3) Please issue said Warrant Shares in the name of the undersigned or in such other name as is specified below:

The Warrant Shares shall be delivered to the following DWAC Account Number:

[SIGNATURE OF HOLDER]

Name of Investing Entity: _____
Signature of Authorized Signatory of Investing Entity: _____
Name of Authorized Signatory: _____
Title of Authorized Signatory: _____
Date: _____

Annex B

ASSIGNMENT FORM

(To assign the foregoing Warrant, execute this form and supply required information. Do not use this form to exercise the Warrant to purchase shares.)

FOR VALUE RECEIVED, the foregoing Warrant and all rights evidenced thereby are hereby assigned to

Name:

(Please Print)

Address:

(Please Print)

Phone Number:

Email Address:

Dated: _____, _____

Holder's Signature:

Holder's Address:

SERIES B COMMON STOCK PURCHASE WARRANT

CINGULATE INC.

Warrant Shares: _____

Issue Date: _____, 2024

THIS SERIES B COMMON STOCK PURCHASE WARRANT (the “Warrant”) certifies that, for value received _____ or its assigns (the “Holder”) is entitled, upon the terms and subject to the limitations on exercise and the conditions hereinafter set forth, at any time on or after the [Stockholder Approval Date]¹ (the “Initial Exercise Date”) and on or prior to 5:00 p.m. (New York City time) on _____² (the “Termination Date”) but not thereafter, to subscribe for and purchase from Cingulate Inc., a Delaware corporation (the “Company”), up to _____ shares (as subject to adjustment hereunder, the “Warrant Shares”) of Common Stock. The purchase price of one share of Common Stock under this Warrant shall be equal to the Exercise Price, as defined in Section 2(b).

Section 1. Definitions. In addition to the terms defined elsewhere in this Warrant, the following terms have the meanings indicated in this Section 1:

“Affiliate” means any Person that, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with a Person, as such terms are used in and construed under Rule 405 under the Securities Act.

“Bid Price” means, for any date, the price determined by the first of the following clauses that applies: (a) if the Common Stock is then listed or quoted on a Trading Market, the bid price of the Common Stock for the time in question (or the nearest preceding date) on the Trading Market on which the Common Stock is then listed or quoted as reported by Bloomberg L.P. (“Bloomberg”) (based on a Trading Day from 9:30 a.m. (New York City time) to 4:02 p.m. (New York City time)), (b) if OTCQB or OTCQX is not a Trading Market, the volume weighted average price of the Common Stock for such date (or the nearest preceding date) on OTCQB or OTCQX as applicable, (c) if the Common Stock is not then listed or quoted for trading on OTCQB or OTCQX and if prices for the Common Stock are then reported on the Pink Open Market (or a similar organization or agency succeeding to its functions of reporting prices), the most recent bid price per share of the Common Stock so reported, or (d) in all other cases, the fair market value of a share of Common Stock as determined by an independent appraiser selected in good faith by the Holders of a majority in interest of the Warrants then outstanding and reasonably acceptable to the Company, the reasonable fees and expenses of which shall be paid by the Company.

¹ Replace bracketed language with “date hereof” if (i) the Per Share Purchase Price equals or exceeds the sum of (a) the applicable “Minimum Price” per share under Nasdaq rule 5635(d) and (b) \$0.125 per whole Common Warrant Share or (ii) if the Offering is treated as a public offering under Nasdaq rule 5635.

² Insert the date that is two year anniversary of the Initial Exercise Date, provided that, if such date is not a Trading Day, insert the immediately following Trading Day.

“Board of Directors” means the board of directors of the Company.

“Commission” means the United States Securities and Exchange Commission.

“Common Stock” means the common stock of the Company, par value \$0.0001 per share, and any other class of securities into which such securities may hereafter be reclassified or changed.

“Common Stock Equivalents” means any securities of the Company or the Subsidiaries which would entitle the holder thereof to acquire at any time Common Stock, including, without limitation, any debt, preferred stock, right, option, warrant or other instrument that is at any time convertible into or exercisable or exchangeable for, or otherwise entitles the holder thereof to receive, Common Stock.

“Exchange Act” means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

“Person” means an individual or corporation, partnership, trust, incorporated or unincorporated association, joint venture, limited liability company, joint stock company, government (or an agency or subdivision thereof) or other entity of any kind.

“Registration Statement” means the effective registration statement on Form S-1 filed with Commission (File No. 333-276502), including all information, documents and exhibits filed with or incorporated by reference into such registration statement, as amended from time to time, which registers the sale the Warrants and the Warrant Shares, among others, and includes any Rule 462(b) Registration Statement.

“Securities Act” means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

[“Stockholder Approval” means such approval as may be required by the applicable rules and regulations of the Nasdaq Stock Market (or any successor entity) from the stockholders of the Company with respect to issuance of all of the Warrants and the Warrant Shares upon the exercise thereof.

“Stockholder Approval Date” means the date on which Stockholder Approval is received and deemed effective under Delaware law.]³

“Subsidiaries” means the subsidiaries of the Company set forth on Exhibit 21.1 to the Registration Statement and shall, where applicable, also include any direct or indirect subsidiary of the Company formed or acquired after the date hereof.

“Trading Day” means a day on which the Common Stock is traded on a Trading Market.

³ Delete bracketed language if (i) the Per Share Purchase Price equals or exceeds the sum of (a) the applicable “Minimum Price” per share under Nasdaq rule 5635(d) and (b) \$0.125 per whole Common Warrant Share or (ii) if the Offering is treated as a public offering under Nasdaq rule 5635.

“Trading Market” means any of the following markets or exchanges on which the Common Stock is listed or quoted for trading on the date in question: the NYSE American, the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market or the New York Stock Exchange (or any successors to any of the foregoing).

“Transfer Agent” means Computershare Trust Company, N.A., the current transfer agent of the Company, with a mailing address of 480 Washington Blvd 26th Floor, Jersey City, NJ 07310, and any successor transfer agent of the Company.

“VWAP” means, for any date, the price determined by the first of the following clauses that applies: (a) if the Common Stock is then listed or quoted on a Trading Market, the daily volume weighted average price of the Common Stock for such date (or the nearest preceding date) on the Trading Market on which the Common Stock is then listed or quoted as reported by Bloomberg (based on a Trading Day from 9:30 a.m. (New York City time) to 4:02 p.m. (New York City time)), (b) if OTCQB or OTCQX is not a Trading Market, the volume weighted average price of the Common Stock for such date (or the nearest preceding date) on OTCQB or OTCQX as applicable, (c) if the Common Stock is not then listed or quoted for trading on OTCQB or OTCQX and if prices for the Common Stock are then reported on The Pink Open Market (or a similar organization or agency succeeding to its functions of reporting prices), the most recent bid price per share of the Common Stock so reported, or (d) in all other cases, the fair market value of a share of Common Stock as determined by an independent appraiser selected in good faith by the Holders of a majority in interest of the Warrants then outstanding and reasonably acceptable to the Company, the reasonable fees and expenses of which shall be paid by the Company.

“Warrants” means this Warrant and other Common Stock purchase warrants issued by the Company pursuant to the Registration Statement.

Section 2. Exercise.

a) Exercise of Warrant. Exercise of the purchase rights represented by this Warrant may be made, in whole or in part, at any time or times on or after the Initial Exercise Date and on or before the Termination Date by delivery to the Company of a duly executed PDF copy submitted by e-mail (or e-mail attachment) of the Notice of Exercise in the form attached hereto as Annex A (the “Notice of Exercise”). Within the earlier of (i) two (2) Trading Days and (ii) the number of Trading Days comprising the Standard Settlement Period (as defined in Section 2(d)(i) herein) following the date of exercise as aforesaid, the Holder shall deliver the aggregate Exercise Price for the Warrant Shares specified in the applicable Notice of Exercise by wire transfer or cashier’s check drawn on a United States bank, in either case in immediately available funds, unless the cashless exercise procedure specified in Section 2(c) below is specified in the applicable Notice of Exercise. No ink-original Notice of Exercise shall be required, nor shall any medallion guarantee (or other type of guarantee or notarization) of any Notice of Exercise be required. The Company shall have no obligation to inquire with respect to or otherwise confirm the authenticity of the signature(s) contained on any Notice of Exercise nor the authority of the person so executing such Notice of Exercise. Notwithstanding anything herein to the contrary, the Holder shall not be required to physically surrender this Warrant to the Company until the Holder has purchased all of the Warrant Shares available hereunder and the Warrant has been exercised in full, in which case, the Holder shall surrender this Warrant to the Company for cancellation within three (3) Trading Days of the date on which the final Notice of Exercise is delivered to the Company. Partial exercises of this Warrant resulting in purchases of a portion of the total number of Warrant Shares available hereunder shall have the effect of lowering the outstanding number of Warrant Shares purchasable hereunder in an amount equal to the applicable number of Warrant Shares purchased. The Holder and the Company shall maintain records showing the number of Warrant Shares purchased and the date of such purchases. The Company shall deliver any objection to any Notice of Exercise within one (1) Trading Day of receipt of such notice. **The Holder and any assignee, by acceptance of this Warrant, acknowledge and agree that, by reason of the provisions of this paragraph, following the purchase of a portion of the Warrant Shares hereunder, the number of Warrant Shares available for purchase hereunder at any given time may be less than the amount stated on the face hereof.**

b) Exercise Price. The exercise price per share of Common Stock under this Warrant shall be \$____, subject to adjustment hereunder (the “Exercise Price”).

c) Cashless Exercise. If at the time of exercise hereof there is no effective registration statement registering, or the prospectus contained therein is not available for the issuance of the Warrant Shares by the Holder, then this Warrant may also be exercised, in whole or in part, at such time by means of a “cashless exercise” in which the Holder shall be entitled to receive a number of Warrant Shares equal to the quotient obtained by dividing [(A-B) (X)] by (A), where:

(A) = as applicable: (i) the VWAP on the Trading Day immediately preceding the date of the applicable Notice of Exercise if such Notice of Exercise is (1) both executed and delivered pursuant to Section 2(a) hereof on a day that is not a Trading Day or (2) both executed and delivered pursuant to Section 2(a) hereof on a Trading Day prior to the opening of “regular trading hours” (as defined in Rule 600(b) of Regulation NMS promulgated under the federal securities laws) on such Trading Day, (ii) at the option of the Holder, either (y) the VWAP on the Trading Day immediately preceding the date of the applicable Notice of Exercise or (z) the Bid Price of the Common Stock on the principal Trading Market as reported by Bloomberg as of the time of the Holder’s execution of the applicable Notice of Exercise if such Notice of Exercise is executed during “regular trading hours” on a Trading Day and is delivered within two (2) hours thereafter (including until two (2) hours after the close of “regular trading hours” on a Trading Day) pursuant to Section 2(a) hereof or (iii) the VWAP on the date of the applicable Notice of Exercise if the date of such Notice of Exercise is a Trading Day and such Notice of Exercise is both executed and delivered pursuant to Section 2(a) hereof after the close of “regular trading hours” on such Trading Day;

(B) = the Exercise Price of this Warrant, as adjusted hereunder; and

(X) = the number of Warrant Shares that would be issuable upon exercise of this Warrant in accordance with the terms of this Warrant if such exercise were by means of a cash exercise rather than a cashless exercise.

If Warrant Shares are issued in such a cashless exercise, the parties acknowledge and agree that in accordance with Section 3(a)(9) of the Securities Act, the Warrant Shares shall take on the registered characteristics of the Warrants being exercised. The Company agrees not to take any position contrary to this Section 2(c).

d) Mechanics of Exercise.

i. Delivery of Warrant Shares Upon Exercise. The Company shall cause the Warrant Shares purchased hereunder to be transmitted by the Transfer Agent to the Holder by crediting the account of the Holder's or its designee's balance account with the Depository Trust Company through its Deposit or Withdrawal at Custodian system ("DWAC") if the Company's transfer agent is then a participant in such system and either (A) there is an effective registration statement permitting the issuance of the Warrant Shares to or resale of the Warrant Shares by the Holder or (B) this Warrant is being exercised via cashless exercise, and otherwise by physical delivery of a certificate, registered in the Company's share register in the name of the Holder or its designee, for the number of Warrant Shares to which the Holder is entitled pursuant to such exercise to the address specified by the Holder in the Notice of Exercise by the date that is the earliest of (i) two (2) Trading Days after the delivery to the Company of the Notice of Exercise, (ii) one (1) Trading Day after delivery of the aggregate Exercise Price to the Company and (iii) the number of Trading Days comprising the Standard Settlement Period after the delivery to the Company of the Notice of Exercise (such date, the "Warrant Share Delivery Date"). Upon delivery of the Notice of Exercise, the Holder shall be deemed for all corporate purposes to have become the holder of record of the Warrant Shares with respect to which this Warrant has been exercised, irrespective of the date of delivery of the Warrant Shares, provided that payment of the aggregate Exercise Price (other than in the case of a cashless exercise) is received within the earlier of (i) two (2) Trading Days and (ii) the number of Trading Days comprising the Standard Settlement Period following delivery of the Notice of Exercise. If the Company fails for any reason to deliver to the Holder the Warrant Shares subject to a Notice of Exercise by the Warrant Share Delivery Date, the Company shall pay to the Holder, in cash, as liquidated damages and not as a penalty, for each \$1,000 of Warrant Shares subject to such exercise (based on the VWAP of the Common Stock on the date of the applicable Notice of Exercise), \$10 per Trading Day (increasing to \$20 per Trading Day on the third Trading Day after the Warrant Share Delivery Date) for each Trading Day after such Warrant Share Delivery Date until such Warrant Shares are delivered or Holder rescinds such exercise. The Company agrees to maintain a transfer agent that is a participant in the FAST program so long as this Warrant remains outstanding and exercisable. As used herein, "Standard Settlement Period" means the standard settlement period, expressed in a number of Trading Days, on the Company's primary Trading Market with respect to the Common Stock as in effect on the date of the delivery of the Notice of Exercise.

ii. Delivery of New Warrants Upon Exercise. If this Warrant shall have been exercised in part, the Company shall, at the request of a Holder and upon surrender of this Warrant, at the time of delivery of the Warrant Shares, deliver to the Holder a new Warrant evidencing the rights of the Holder to purchase the unpurchased Warrant Shares remaining available under this Warrant, which new Warrant shall in all other respects be identical with this Warrant.

iii. Rescission Rights. If the Company fails to cause the Transfer Agent to transmit to the Holder the Warrant Shares pursuant to Section 2(d)(i) by the Warrant Share Delivery Date, then the Holder will have the right to rescind such exercise.

iv. Compensation for Buy-In on Failure to Timely Deliver Warrant Shares Upon Exercise. In addition to any other rights available to the Holder, if the Company fails to cause the Transfer Agent to transmit to the Holder the Warrant Shares in accordance with the provisions of Section 2(d)(i) above pursuant to an exercise on or before the Warrant Share Delivery Date, and if after such date the Holder is required by its broker to purchase (in an open market transaction or otherwise) or the Holder's brokerage firm otherwise purchases, shares of Common Stock to deliver in satisfaction of a sale by the Holder of the Warrant Shares which the Holder anticipated receiving upon such exercise (a "Buy-In"), then the Company shall (A) pay in cash to the Holder the amount, if any, by which (x) the Holder's total purchase price (including reasonable and customary brokerage commissions, if any) for the shares of Common Stock so purchased exceeds (y) the amount obtained by multiplying (1) the number of Warrant Shares that the Company was required to deliver to the Holder in connection with the exercise at issue times (2) the price at which the sell order giving rise to such purchase obligation was executed, and (B) at the option of the Holder, either reinstate the portion of the Warrant and equivalent number of Warrant Shares for which such exercise was not honored (in which case such exercise shall be deemed rescinded) or deliver to the Holder the number of shares of Common Stock that would have been issued had the Company timely complied with its exercise and delivery obligations hereunder. For example, if the Holder purchases Common Stock having a total purchase price of \$11,000 to cover a Buy-In with respect to an attempted exercise of shares of Common Stock with an aggregate sale price giving rise to such purchase obligation of \$10,000, under clause (A) of the immediately preceding sentence the Company shall be required to pay the Holder \$1,000. The Holder shall provide the Company written notice indicating the amounts payable to the Holder in respect of the Buy-In and, upon request of the Company, evidence of the amount of such loss. Nothing herein shall limit a Holder's right to pursue any other remedies available to it hereunder, at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief with respect to the Company's failure to timely deliver shares of Common Stock upon exercise of the Warrant as required pursuant to the terms hereof.

v. No Fractional Shares or Scrip. No fractional shares or scrip representing fractional shares shall be issued upon the exercise of this Warrant. As to any fraction of a share which the Holder would otherwise be entitled to purchase upon such exercise, the Company shall, at its election, either pay a cash adjustment in respect of such final fraction in an amount equal to such fraction multiplied by the Exercise Price or round up to the next whole share.

vi. Charges, Taxes and Expenses. Issuance of Warrant Shares shall be made without charge to the Holder for any issue or transfer tax or other incidental expense in respect of the issuance of such Warrant Shares, all of which taxes and expenses shall be paid by the Company, and such Warrant Shares shall be issued in the name of the Holder or in such name or names as may be directed by the Holder; provided, however, that in the event that Warrant Shares are to be issued in a name other than the name of the Holder, this Warrant when surrendered for exercise shall be accompanied by the assignment form attached hereto as Annex B (the "Assignment Form") duly executed by the Holder and the Company may require, as a condition thereto, the payment of a sum sufficient to reimburse it for any transfer tax incidental thereto. The Company shall pay all Transfer Agent fees required for same-day processing of any Notice of Exercise and all fees to the Depository Trust Company (or another established clearing corporation performing similar functions) required for same-day electronic delivery of the Warrant Shares.

vii. Closing of Books. The Company will not close its stockholder books or records in any manner which prevents the timely exercise of this Warrant, pursuant to the terms hereof.

e) Beneficial Ownership Limitations. The Company shall not effect any exercise of this Warrant, and a Holder shall not have the right to exercise any portion of this Warrant, pursuant to Section 2 or otherwise, to the extent that after giving effect to such issuance after exercise as set forth on the applicable Notice of Exercise, the Holder (together with the Holder's Affiliates, and any other Persons acting as a group together with the Holder or any of the Holder's Affiliates (such Persons, "Attribution Parties")), would beneficially own in excess of the Beneficial Ownership Limitation (as defined below). For purposes of the foregoing sentence, the number of shares of Common Stock beneficially owned by the Holder and its Affiliates and Attribution Parties shall include the number of shares of Common Stock issuable upon exercise of this Warrant with respect to which such determination is being made, but shall exclude the number of shares of Common Stock which would be issuable upon (i) exercise of the remaining, nonexercised portion of this Warrant beneficially owned by the Holder or any of its Affiliates or Attribution Parties and (ii) exercise or conversion of the unexercised or nonconverted portion of any other securities of the Company (including, without limitation, any other Common Stock Equivalents) subject to a limitation on conversion or exercise analogous to the limitation contained herein beneficially owned by the Holder or any of its Affiliates or Attribution Parties. Except as set forth in the preceding sentence, for purposes of this Section 2(e), beneficial ownership shall be calculated in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder, it being acknowledged by the Holder that the Company is not representing to the Holder that such calculation is in compliance with Section 13(d) of the Exchange Act and the Holder is solely responsible for any schedules required to be filed in accordance therewith and the calculations required under this Section 2(e). To the extent that the limitation contained in this Section 2(e) applies, the determination of whether this Warrant is exercisable (in relation to other securities owned by the Holder together with any Affiliates and Attribution Parties) and of which portion of this Warrant is exercisable shall be in the sole discretion of the Holder, and the submission of a Notice of Exercise shall be deemed to be the Holder's determination of whether this Warrant is exercisable (in relation to other securities owned by the Holder together with any Affiliates and Attribution Parties) and of which portion of this Warrant is exercisable, in each case subject to the Beneficial Ownership Limitation, and the Company shall have no obligation to verify or confirm the accuracy of such determination. In addition, a determination as to any group status as contemplated above shall be determined in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder. For purposes of this Section 2(e), in determining the number of outstanding shares of Common Stock, a Holder may rely on the number of outstanding shares of Common Stock as reflected in (A) the Company's most recent periodic or annual report filed with the Commission, as the case may be, (B) a more recent public announcement by the Company or (C) a more recent written notice by the Company or the Transfer Agent setting forth the number of shares of Common Stock outstanding. Upon the written or oral request of a Holder, the Company shall within one (1) Trading Day confirm orally and in writing to the Holder the number of shares of Common Stock then outstanding. In any case, the number of outstanding shares of Common Stock shall be determined after giving effect to the conversion or exercise of securities of the Company, including this Warrant, by the Holder or its Affiliates or Attribution Parties since the date as of which such number of outstanding shares of Common Stock was reported. The "Beneficial Ownership Limitation" shall be $[4.99\%]/[9.99]$ of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock issuable upon exercise of this Warrant. The Holder, upon notice to the Company, may increase or decrease the Beneficial Ownership Limitation provisions of this Section 2(e), provided that the Beneficial Ownership Limitation in no event exceeds 9.99% of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock upon exercise of this Warrant held by the Holder and the provisions of this Section 2(e) shall continue to apply. Any increase in the Beneficial Ownership Limitation will not be effective until the 61st day after such notice is delivered to the Company. The provisions of this Section 2(e) shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this Section 2(e) to correct this Section 2(e) (or any portion hereof) which may be defective or inconsistent with the intended Beneficial Ownership Limitation herein contained or to make changes or supplements necessary or desirable to properly give effect to such limitation. The limitations contained in this Section 2(e) shall apply to a successor holder of this Warrant.

Section 3. Certain Adjustments.

a) Stock Dividends and Splits. If the Company, at any time while this Warrant is outstanding: (i) pays a stock dividend or otherwise makes a distribution or distributions on shares of its Common Stock or any other equity or equity equivalent securities payable in shares of Common Stock (which, for avoidance of doubt, shall not include any shares of Common Stock issued by the Company upon exercise of this Warrant), (ii) subdivides outstanding shares of Common Stock into a larger number of shares, (iii) combines (including by way of reverse stock split) outstanding shares of Common Stock into a smaller number of shares, or (iv) issues by reclassification of shares of the Common Stock any shares of capital stock of the Company, then in each case the Exercise Price shall be multiplied by a fraction of which the numerator shall be the number of shares of Common Stock (excluding treasury shares, if any) outstanding immediately before such event and of which the denominator shall be the number of shares of Common Stock outstanding immediately after such event, and the number of shares issuable upon exercise of this Warrant shall be proportionately adjusted such that the aggregate Exercise Price of this Warrant shall remain unchanged. Any adjustment made pursuant to this Section 3(a) shall become effective immediately after the record date for the determination of stockholders entitled to receive such dividend or distribution and shall become effective immediately after the effective date in the case of a subdivision, combination or reclassification.

b) Subsequent Rights Offerings. In addition to any adjustments pursuant to Section 3(a) above, if at any time while this Warrant is outstanding the Company grants, issues or sells any Common Stock Equivalents or rights to purchase stock, warrants, securities or other property pro rata to the record holders of any class of shares of Common Stock (the "Purchase Rights"), then the Holder will be entitled to acquire, upon the terms applicable to such Purchase Rights, the aggregate Purchase Rights which the Holder could have acquired if the Holder had held the number of shares of Common Stock acquirable upon complete exercise of this Warrant (without regard to any limitations on exercise hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date on which a record is taken for the grant, issuance or sale of such Purchase Rights, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the grant, issue or sale of such Purchase Rights (provided, however, that to the extent that the Holder's right to participate in any such Purchase Right would result in the Holder exceeding the Beneficial Ownership Limitation, then the Holder shall not be entitled to participate in such Purchase Right to such extent (or beneficial ownership of such shares of Common Stock as a result of such Purchase Right to such extent) and such Purchase Right to such extent shall be held in abeyance for the Holder until such time, if ever, as its right thereto would not result in the Holder exceeding the Beneficial Ownership Limitation); provided, that such Purchase Right shall terminate on, and shall not be held in abeyance for any period subsequent to the Termination Date.

c) Pro Rata Distributions. During such time as this Warrant is outstanding, if the Company shall declare or make any dividend or other distribution of its assets (or rights to acquire its assets) to holders of shares of Common Stock, by way of return of capital or otherwise (including, without limitation, any distribution of cash, stock or other securities, property or options by way of a dividend, spin off, reclassification, corporate rearrangement, scheme of arrangement or other similar transaction) (a "Distribution"), at any time after the issuance of this Warrant, then, in each such case, the Holder shall be entitled to participate in such Distribution to the same extent that the Holder would have participated therein if the Holder had held the number of shares of Common Stock acquirable upon complete exercise of this Warrant (without regard to any limitations on exercise hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date of which a record is taken for such Distribution, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the participation in such Distribution (provided, however, that to the extent that the Holder's right to participate in any such Distribution would result in the Holder exceeding the Beneficial Ownership Limitation, then the Holder shall not be entitled to participate in such Distribution to such extent (or in the beneficial ownership of any shares of Common Stock as a result of such Distribution to such extent) and the portion of such Distribution shall be held in abeyance for the benefit of the Holder until such time, if ever, as its right thereto would not result in the Holder exceeding the Beneficial Ownership Limitation); provided, that such Purchase Right shall terminate on, and shall not be held in abeyance for any period subsequent to the Termination Date.

d) Fundamental Transaction. If, at any time while this Warrant is outstanding, (i) the Company (and all of its Subsidiaries, taken as a whole), directly or indirectly, in one or more related transactions effects any merger or consolidation of the Company with or into another Person (other than for the purpose of changing the Company's name and/or the jurisdiction of incorporation of the Company or a holding company for the Company), (ii) the Company, directly or indirectly, effects any sale, lease, license, assignment, transfer, conveyance or other disposition of all or substantially all of its assets in one or a series of related transactions, (iii) any, direct or indirect, purchase offer, tender offer or exchange offer (whether by the Company or another Person) is completed pursuant to which holders of the outstanding equity securities of the Company having voting power, including the power to vote on the election of directors of the Company, are permitted to sell, tender or exchange their securities for other securities, cash or property and has been accepted by the holders of the outstanding securities representing more than 50% of the aggregate voting power, including the power to vote on the election of directors of the Company, of the issued and outstanding equity securities of the Company, (iv) the Company, directly or indirectly, in one or more related transactions effects any reclassification, reorganization or recapitalization of the Common Stock or any compulsory share exchange pursuant to which the Common Stock is effectively converted into or exchanged for other securities, cash or property, or (v) the Company, directly or indirectly, in one or more related transactions consummates a stock or share purchase agreement or other business combination (including, without limitation, a reorganization, recapitalization, spin-off, merger or scheme of arrangement) with another Person or group of Persons whereby such other Person or group acquires securities representing more than 50% of the aggregate voting power, including the power to vote on the election of directors of the Company, of the issued and outstanding equity securities of the Company (each a "Fundamental Transaction"), then, upon any subsequent exercise of this Warrant, the Holder shall have the right to receive, for each Warrant Share that would have been issuable upon such exercise immediately prior to the occurrence of such Fundamental Transaction, at the option of the Holder (without regard to any limitation in Section 2(d) on the exercise of this Warrant), the number of shares of Common Stock of the successor or acquiring corporation or of the Company, if it is the surviving corporation, and any additional consideration (the "Alternate Consideration") receivable as a result of such Fundamental Transaction by a holder of the number of shares of Common Stock for which this Warrant is exercisable immediately prior to such Fundamental Transaction (without regard to any limitation in Section 2(e) on the exercise of this Warrant). For purposes of any such exercise, the determination of the Exercise Price shall be appropriately adjusted to apply to such Alternate Consideration based on the amount of Alternate Consideration issuable in respect of one share of Common Stock in such Fundamental Transaction, and the Company shall apportion the Exercise Price among the Alternate Consideration in a reasonable manner reflecting the relative value of any different components of the Alternate Consideration. If holders of Common Stock are given any choice as to the securities, cash or property to be received in a Fundamental Transaction, then the Holder shall be given the same choice as to the Alternate Consideration it receives upon any exercise of this Warrant following such Fundamental Transaction. Notwithstanding anything to the contrary, in the event of a Fundamental Transaction (other than (x) any stock split or reverse stock split, (y) any transaction effected solely for the purpose of changing the jurisdiction of incorporation of the Company, or (z) any holding company reorganization or parent-subsidiary merger not requiring stockholder approval pursuant to Sections 251(g) or 253 of the Delaware General Corporation Law (or any successor provisions thereof)), and for the avoidance of doubt, the Fundamental Transaction is approved by the Company's board of directors and within the control of the Company, the Company or any Successor Entity (as defined below) shall, at the Holder's option, exercisable at any time concurrently with, or within 30 days after, the consummation of the Fundamental Transaction (or, if later, the date of the public announcement of the applicable Fundamental Transaction), purchase this Warrant from the Holder by paying to the Holder an amount of cash equal to the Black Scholes Value (as defined below) of the remaining unexercised portion of this Warrant on the date of the consummation of such Fundamental Transaction; provided, however, if the Fundamental Transaction is not within the Company's control, including not approved by the Company's Board of Directors, Holder shall only be entitled to receive from the Company or any Successor Entity, as of the date of consummation of such Fundamental Transaction, the same type or form of consideration (and in the same proportion), at the Black Scholes Value of the unexercised portion of this Warrant, that is being offered and paid to the holders of Common Stock of the Company in connection with the Fundamental Transaction, whether that consideration be in the form of cash, stock or any combination thereof, or whether the holders of Common Stock are given the choice to receive from among alternative forms of consideration in connection with the Fundamental Transaction; provided, further, that if holders of Common Stock of the Company are not offered or paid any consideration in such Fundamental Transaction, such holders of Common Stock will be deemed to have received common stock of the Successor Entity (which Successor Entity may be the Company following such Fundamental Transaction) in such Fundamental Transaction. "Black Scholes Value" means the value of this Warrant based on the Black Scholes Option Pricing Model obtained from the "OV" function on Bloomberg determined as of the day of consummation of the applicable Fundamental Transaction for pricing purposes and reflecting (A) a risk-free interest rate corresponding to the U.S. Treasury rate for a period equal to the time between the date of the public announcement of the applicable Fundamental Transaction and the Termination Date, (B) an expected volatility equal to the 100 day volatility obtained from the HVT function on Bloomberg (determined utilizing a 365-day annualization factor) as of the Trading Day immediately following the public announcement of the applicable Fundamental Transaction, (C) the underlying price per share used in such calculation shall be the sum of the price per share being offered in cash, if any, plus the value of any non-cash consideration, if any, being offered in such Fundamental Transaction, (D) a remaining option time equal to the time between the date of the public announcement of the applicable Fundamental Transaction and the Termination Date and (E) a zero cost of borrow. The payment of the Black Scholes Value will be made by wire transfer of immediately available funds within five (5) Trading Days of the Holder's election (or, if later, on the effective date of the Fundamental Transaction). The Company shall require any successor entity in a Fundamental Transaction in which the Company is not the survivor (the "Successor Entity") to assume in writing all of the obligations of the Company under this Warrant and the other Transaction Documents in accordance with the provisions of this Section 3(d) pursuant to written agreements in form and substance reasonably satisfactory to the Holder and approved by the Holder (without unreasonable delay) prior to such Fundamental Transaction and shall, at the option of the Holder, deliver to the Holder in exchange for this Warrant a security of the Successor Entity evidenced by a written instrument substantially similar in form and substance to this Warrant which is exercisable for a corresponding number of shares of capital stock of such Successor Entity (or its parent entity) equivalent to the shares of Common Stock acquirable and receivable upon exercise of this Warrant (without regard to any limitations on the exercise of this Warrant) prior to such Fundamental Transaction, and with an exercise price which applies the exercise price hereunder to such shares of capital stock (but taking into account the relative value of the shares of Common Stock pursuant to such Fundamental Transaction and the value of such shares of capital stock, such number of shares of capital stock and such exercise price being for the purpose of protecting the economic value of this Warrant immediately prior to the consummation of such Fundamental Transaction), and which is reasonably satisfactory in form and substance to the Holder. Upon the occurrence of any such Fundamental Transaction, the Successor Entity shall succeed to, and be substituted for (so that from and after the date of such Fundamental Transaction, the provisions of this Warrant and the other Transaction Documents referring to the "Company" shall refer instead to the Successor Entity), and may exercise every right and power of the Company and shall assume all of the obligations of the Company under this Warrant and the other Transaction Documents with the same effect as if such Successor Entity had been named as the Company herein. For the avoidance of doubt, the Holder shall be entitled to the benefits of the provisions of this Section 3(e) regardless of whether the Company has sufficient authorized shares of Common Stock for the issuance of Warrant Shares.

e) Calculations. All calculations under this Section 3 shall be made to the nearest cent or the nearest 1/100th of a share, as the case may be. For purposes of this Section 3, the number of shares of Common Stock deemed to be issued and outstanding as of a given date shall be the sum of the number of shares of Common Stock (excluding treasury shares, if any) issued and outstanding.

f) Notice to Holder.

i. Adjustment to Exercise Price. Whenever the Exercise Price is adjusted pursuant to any provision of this Section 3, the Company shall promptly deliver to the Holder by email a notice setting forth the Exercise Price after such adjustment and any resulting adjustment to the number of Warrant Shares and setting forth a brief statement of the facts requiring such adjustment.

ii. Notice to Allow Exercise by Holder. If (A) the Company shall declare a dividend (or any other distribution in whatever form) on the Common Stock, (B) the Company shall declare a special nonrecurring cash dividend on or a redemption of the Common Stock, (C) the Company shall authorize the granting to all holders of the Common Stock rights or warrants to subscribe for or purchase any shares of capital stock of any class or of any rights, (D) the approval of any stockholders of the Company shall be required in connection with any reclassification of the Common Stock, any consolidation or merger to which the Company (and all of its Subsidiaries, taken as a whole) is a party, any sale or transfer of all or substantially all of the assets of the Company, or any compulsory share exchange whereby the Common Stock is converted into other securities, cash or property, or (E) the Company shall authorize the voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Company, then, in each case, the Company shall cause to be delivered by email to the Holder at its last email or other address as it shall appear upon the Warrant Register of the Company, at least 20 calendar days prior to the applicable record or effective date hereinafter specified, a notice stating (x) the date on which a record is to be taken for the purpose of such dividend, distribution, redemption, rights or warrants, or if a record is not to be taken, the date as of which the holders of the Common Stock of record to be entitled to such dividend, distributions, redemption, rights or warrants are to be determined or (y) the date on which such reclassification, consolidation, merger, sale, transfer or share exchange is expected to become effective or close, and the date as of which it is expected that holders of the Common Stock of record shall be entitled to exchange their shares of the Common Stock for securities, cash or other property deliverable upon such reclassification, consolidation, merger, sale, transfer or share exchange; provided that the failure to deliver such notice or any defect therein or in the delivery thereof shall not affect the validity of the corporate action required to be specified in such notice. To the extent that any notice provided in this Warrant constitutes, or contains, material, non-public information regarding the Company or any of the Subsidiaries, the Company shall simultaneously file such notice with the Commission pursuant to a Current Report on Form 8-K. The Holder shall remain entitled to exercise this Warrant during the period commencing on the date of such notice to the effective date of the event triggering such notice except as may otherwise be expressly set forth herein.

Section 4. Transfer of Warrant.

a) Transferability. This Warrant and all rights hereunder (including, without limitation, any registration rights) are transferable, in whole or in part, upon surrender of this Warrant at the principal office of the Company or its designated agent, together with a written assignment of this Warrant substantially in the form attached hereto duly executed by the Holder or its agent or attorney and funds sufficient to pay any transfer taxes payable upon the making of such transfer. Upon such surrender and, if required, such payment, the Company shall execute and deliver a new Warrant or Warrants in the name of the assignee or assignees, as applicable, and in the denomination or denominations specified in such instrument of assignment, and shall issue to the assignor a new Warrant evidencing the portion of this Warrant not so assigned, and this Warrant shall promptly be cancelled. Notwithstanding anything herein to the contrary, the Holder shall not be required to physically surrender this Warrant to the Company unless the Holder has assigned this Warrant in full, in which case, the Holder shall surrender this Warrant to the Company within three (3) Trading Days of the date on which the Holder delivers a duly executed Assignment Form to the Company assigning this Warrant in full. The Warrant, if properly assigned in accordance herewith, may be exercised by a new holder for the purchase of Warrant Shares without having a new Warrant issued.

b) New Warrants. This Warrant may be divided or combined with other Warrants upon presentation hereof at the aforesaid office of the Company, together with a written notice specifying the names and denominations in which new Warrants are to be issued, signed by the Holder or its agent or attorney. Subject to compliance with Section 4(a), as to any transfer which may be involved in such division or combination, the Company shall execute and deliver a new Warrant or Warrants in exchange for the Warrant or Warrants to be divided or combined in accordance with such notice. All Warrants issued on transfers or exchanges shall be dated the initial issuance date of this Warrant and shall be identical with this Warrant except as to the number of Warrant Shares issuable pursuant thereto.

c) Warrant Register. The Company shall register this Warrant, upon records to be maintained by the Company for that purpose (the “Warrant Register”), in the name of the record Holder hereof from time to time. The Company may deem and treat the registered Holder of this Warrant as the absolute owner hereof for the purpose of any exercise hereof or any distribution to the Holder, and for all other purposes, absent actual notice to the contrary.

Section 5. Miscellaneous.

a) No Rights as Stockholder Until Exercise; No Settlement in Cash. This Warrant does not entitle the Holder to any voting rights, dividends or other rights as a stockholder of the Company prior to the exercise hereof as set forth in Section 2(d)(i), except as expressly set forth in Section 3. Without limiting any rights of a Holder to receive Warrant Shares on a “cashless exercise” pursuant to Section 2(c) or to receive cash payments pursuant to Section 2(d)(i) and Section 2(d)(iv) herein, in no event shall the Company be required to net cash settle an exercise of this Warrant.

b) Loss, Theft, Destruction or Mutilation of Warrant. The Company covenants that upon receipt by the Company of evidence reasonably satisfactory to it of the loss, theft, destruction or mutilation of this Warrant or any stock certificate relating to the Warrant Shares, and in case of loss, theft or destruction, of indemnity or security reasonably satisfactory to it (which, in the case of the Warrant, shall not include the posting of any bond), and upon surrender and cancellation of such Warrant or stock certificate, if mutilated, the Company will make and deliver a new Warrant or stock certificate of like tenor and dated as of such cancellation, in lieu of such Warrant or stock certificate.

c) Saturdays, Sundays, Holidays, etc. If the last or appointed day for the taking of any action or the expiration of any right required or granted herein shall not be a Trading Day, then such action may be taken or such right may be exercised on the next succeeding Trading Day.

d) Authorized Shares.

The Company covenants that during the period the Warrant is outstanding, it will reserve from its authorized and unissued Common Stock a sufficient number of shares to provide for the issuance of the Warrant Shares upon the exercise of any purchase rights under this Warrant. The Company further covenants that its issuance of this Warrant shall constitute full authority to its officers who are charged with the duty of issuing the necessary Warrant Shares upon the exercise of the purchase rights under this Warrant. The Company will take such reasonable action as may be necessary to assure that such Warrant Shares may be issued as provided herein without violation of any applicable law or regulation, or of any requirements of the Trading Market upon which the Common Stock may be listed. The Company covenants that all Warrant Shares which may be issued upon the exercise of the purchase rights represented by this Warrant will, upon exercise of the purchase rights represented by this Warrant and payment for such Warrant Shares in accordance herewith, be duly authorized, validly issued, fully paid and nonassessable and free from all taxes, liens and charges created by the Company in respect of the issue thereof (other than taxes in respect of any transfer occurring contemporaneously with such issue).

Except and to the extent as waived or consented to by the Holder, the Company shall not by any action, including, without limitation, amending its certificate of incorporation or through any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Warrant, but will at all times in good faith assist in the carrying out of all such terms and in the taking of all such actions as may be necessary or appropriate to protect the rights of Holder as set forth in this Warrant against impairment. Without limiting the generality of the foregoing, the Company will (i) not increase the par value of any Warrant Shares above the amount payable therefor upon such exercise immediately prior to such increase in par value, (ii) take such action as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and nonassessable Warrant Shares upon the exercise of this Warrant and (iii) use commercially reasonable efforts to obtain all such authorizations, exemptions or consents from any public regulatory body having jurisdiction thereof, as may be, necessary to enable the Company to perform its obligations under this Warrant.

Before taking any action which would result in an adjustment in the number of Warrant Shares for which this Warrant is exercisable or in the Exercise Price, the Company shall obtain all such authorizations or exemptions thereof, or consents thereto, as may be necessary from any public regulatory body or bodies having jurisdiction thereof.

e) Jurisdiction. All questions concerning the construction, validity, enforcement and interpretation of this Warrant shall be governed by and construed and enforced in accordance with the internal laws of the State of New York, without regard to the principles of conflicts of law thereof. The Company and, by accepting this Warrant, the Holder each agrees that all legal proceedings concerning the interpretations, enforcement and defense of the transactions contemplated by this Warrant (whether brought against the Company or the Holder or their respective affiliates, directors, officers, shareholders, partners, members, employees or agents) shall be commenced exclusively in the state and federal courts sitting in the City of New York. The Company and, by accepting this Warrant, the Holder each hereby irrevocably submits to the exclusive jurisdiction of the state and federal courts sitting in the City of New York, Borough of Manhattan for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein, and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of any such court, that such suit, action or proceeding is improper or is an inconvenient venue for such proceeding. The Company and, by accepting this Warrant, the Holder each hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a copy thereof via registered or certified mail or overnight delivery (with evidence of delivery) to it at the address in effect for notices to it under this Warrant and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any other manner permitted by law. If the Company or the Holder shall commence an action, suit or proceeding to enforce any provisions of this Warrant, the prevailing party in such action, suit or proceeding shall be reimbursed by the other party for their reasonable attorneys' fees and other costs and expenses incurred with the investigation, preparation and prosecution of such action or proceeding.

f) Restrictions. The Holder acknowledges that the Warrant Shares acquired upon the exercise of this Warrant, if not registered, and the Holder does not utilize cashless exercise, will have restrictions upon resale imposed by state and federal securities laws.

g) Nonwaiver and Expenses. No course of dealing or any delay or failure to exercise any right hereunder on the part of Holder shall operate as a waiver of such right or otherwise prejudice the Holder's rights, powers or remedies. Without limiting any other provision of this Warrant, if the Company willfully and knowingly fails to comply with any provision of this Warrant, which results in any material damages to the Holder, the Company shall pay to the Holder such amounts as shall be sufficient to cover any costs and expenses including, but not limited to, reasonable attorneys' fees, including those of appellate proceedings, incurred by the Holder in collecting any amounts due pursuant hereto or in otherwise enforcing any of its rights, powers or remedies hereunder.

h) Notices. Any and all notices or other communications or deliveries to be provided by the Holder hereunder including, without limitation, any Notice of Exercise, shall be in writing and delivered personally, by email or sent by a nationally recognized overnight courier service, addressed to the Company, at 1901 W. 47th Place, Kansas City, KS 66205, Attention: Shane J. Schaffer, CEO, email address: sschaffer@cingulate.com, or such other email address or address as the Company may specify for such purposes by notice to the Holder. Any and all notices or other communications or deliveries to be provided by the Company hereunder shall be in writing and delivered personally, by email, or sent by a nationally recognized overnight courier service addressed to the Holder at the email address or address of the Holder appearing on the books of the Company. Any notice or other communication or deliveries hereunder shall be deemed given and effective on the earliest of (i) the time of transmission, if such notice or communication is delivered via email at the email address set forth in this Section prior to 5:30 p.m. (New York City time) on any date, (ii) the next Trading Day after the time of transmission, if such notice or communication is delivered via email at the email address set forth in this Section on a day that is not a Trading Day or later than 5:30 p.m. (New York City time) on any Trading Day, (iii) the second Trading Day following the date of mailing, if sent by U.S. nationally recognized overnight courier service, or (iv) upon actual receipt by the party to whom such notice is required to be given. To the extent that any notice provided by the Company hereunder constitutes, or contains, material, non-public information regarding the Company or any subsidiaries, the Company shall simultaneously file such notice with the Commission pursuant to a Current Report on Form 8-K.

i) Limitation of Liability. No provision hereof, in the absence of any affirmative action by the Holder to exercise this Warrant to purchase Warrant Shares, and no enumeration herein of the rights or privileges of the Holder, shall give rise to any liability of the Holder for the purchase price of any Common Stock or as a stockholder of the Company, whether such liability is asserted by the Company or by creditors of the Company.

j) Remedies. The Holder, in addition to being entitled to exercise all rights granted by law, including recovery of damages, will be entitled to specific performance of its rights under this Warrant. The Company agrees that monetary damages would not be adequate compensation for any loss incurred by reason of a breach by it of the provisions of this Warrant and hereby agrees to waive and not to assert the defense in any action for specific performance that a remedy at law would be adequate.

k) Successors and Assigns. Subject to applicable securities laws, this Warrant and the rights and obligations evidenced hereby shall inure to the benefit of and be binding upon the successors and permitted assigns of the Company and the successors and permitted assigns of Holder. The provisions of this Warrant are intended to be for the benefit of any Holder from time to time of this Warrant and shall be enforceable by such Holder or holder of Warrant Shares.

l) Amendment. This Warrant may be modified or amended or the provisions hereof waived with the written consent of the Company, on the one hand and the Holder, on the other hand.

m) Severability. Wherever possible, each provision of this Warrant shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Warrant shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions or the remaining provisions of this Warrant.

n) Headings. The headings used in this Warrant are for the convenience of reference only and shall not, for any purpose, be deemed a part of this Warrant.

o) Electronic Signatures. Electronically scanned and transmitted signatures, including by email attachment, shall be deemed originals for all purposes of this Warrant.

(Signature Page Follows)

IN WITNESS WHEREOF, the Company has caused this Warrant to be executed by its officer thereunto duly authorized as of the date first above indicated.

CINGULATE INC.

By: _____
Name: Shane J. Schaffer
Title: Chief Executive Officer

NOTICE OF EXERCISE

TO: CINGULATE INC.

(1) The undersigned hereby elects to purchase _____ Warrant Shares of the Company pursuant to the terms of the attached Warrant (only if exercised in full), and tenders herewith payment of the exercise price in full, together with all applicable transfer taxes, if any.

(2) Payment shall take the form of (check applicable box):

- ☐ in lawful money of the United States; or
- ☐ if permitted the cancellation of such number of Warrant Shares as is necessary, in accordance with the formula set forth in subsection 2(c), to exercise this Warrant with respect to the maximum number of Warrant Shares purchasable pursuant to the cashless exercise procedure set forth in subsection 2(c).

(3) Please issue said Warrant Shares in the name of the undersigned or in such other name as is specified below:

The Warrant Shares shall be delivered to the following DWAC Account Number:

[SIGNATURE OF HOLDER]

Name of Investing Entity: _____
Signature of Authorized Signatory of Investing Entity: _____
Name of Authorized Signatory: _____
Title of Authorized Signatory: _____
Date: _____

Annex B

ASSIGNMENT FORM

(To assign the foregoing Warrant, execute this form and supply required information. Do not use this form to exercise the Warrant to purchase shares.)

FOR VALUE RECEIVED, the foregoing Warrant and all rights evidenced thereby are hereby assigned to

Name: _____
(Please Print)

Address: _____
(Please Print)

Phone Number: _____

Email Address: _____

Dated: _____, _____

Holder’s Signature: _____

Holder’s Address: _____

PLACEMENT AGENT COMMON STOCK PURCHASE WARRANT

CINGULATE INC.

Warrant Shares: _____

Issue Date: _____, 2024

THIS PLACEMENT AGENT COMMON STOCK PURCHASE WARRANT (the “Warrant”) certifies that, for value received _____ or its assigns (the “Holder”) is entitled, upon the terms and subject to the limitations on exercise and the conditions hereinafter set forth, at any time on or after the [Stockholder Approval Date]¹ (the “Initial Exercise Date”) and on or prior to 5:00 p.m. (New York City time) on _____² (the “Termination Date”) but not thereafter, to subscribe for and purchase from Cingulate Inc., a Delaware corporation (the “Company”), up to _____ shares (as subject to adjustment hereunder, the “Warrant Shares”) of Common Stock. The purchase price of one share of Common Stock under this Warrant shall be equal to the Exercise Price, as defined in Section 2(b). This Warrant is issued pursuant to that certain Engagement Agreement, by and between the Company and H.C. Wainwright & Co., LLC, dated as of December 27, 2023.

Section 1. Definitions. In addition to the terms defined elsewhere in this Warrant, the following terms have the meanings indicated in this Section 1:

“Affiliate” means any Person that, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with a Person, as such terms are used in and construed under Rule 405 under the Securities Act.

“Bid Price” means, for any date, the price determined by the first of the following clauses that applies: (a) if the Common Stock is then listed or quoted on a Trading Market, the bid price of the Common Stock for the time in question (or the nearest preceding date) on the Trading Market on which the Common Stock is then listed or quoted as reported by Bloomberg L.P. (“Bloomberg”) (based on a Trading Day from 9:30 a.m. (New York City time) to 4:02 p.m. (New York City time)), (b) if OTCQB or OTCQX is not a Trading Market, the volume weighted average price of the Common Stock for such date (or the nearest preceding date) on OTCQB or OTCQX as applicable, (c) if the Common Stock is not then listed or quoted for trading on OTCQB or OTCQX and if prices for the Common Stock are then reported on the Pink Open Market (or a similar organization or agency succeeding to its functions of reporting prices), the most recent bid price per share of the Common Stock so reported, or (d) in all other cases, the fair market value of a share of Common Stock as determined by an independent appraiser selected in good faith by the Holders of a majority in interest of the Warrants then outstanding and reasonably acceptable to the Company, the reasonable fees and expenses of which shall be paid by the Company.

¹ Replace bracketed language with “date hereof” if (i) the Per Share Purchase Price equals or exceeds the sum of (a) the applicable “Minimum Price” per share under Nasdaq rule 5635(d) and (b) \$0.125 per whole Common Warrant Share or (ii) if the Offering is treated as a public offering under Nasdaq rule 5635.

² Insert the date that is the five year anniversary of the commencement of sales, provided that, if such date is not a Trading Day, insert the immediately following Trading Day.

“Board of Directors” means the board of directors of the Company.

“Commission” means the United States Securities and Exchange Commission.

“Common Stock” means the common stock of the Company, par value \$0.0001 per share, and any other class of securities into which such securities may hereafter be reclassified or changed.

“Common Stock Equivalents” means any securities of the Company or the Subsidiaries which would entitle the holder thereof to acquire at any time Common Stock, including, without limitation, any debt, preferred stock, right, option, warrant or other instrument that is at any time convertible into or exercisable or exchangeable for, or otherwise entitles the holder thereof to receive, Common Stock.

“Exchange Act” means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

“Person” means an individual or corporation, partnership, trust, incorporated or unincorporated association, joint venture, limited liability company, joint stock company, government (or an agency or subdivision thereof) or other entity of any kind.

“Registration Statement” means the effective registration statement on Form S-1 filed with Commission (File No. 333-276502), including all information, documents and exhibits filed with or incorporated by reference into such registration statement, as amended from time to time, which registers the sale the Warrants and the Warrant Shares, among others, and includes any Rule 462(b) Registration Statement.

“Securities Act” means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

[“Stockholder Approval” means such approval as may be required by the applicable rules and regulations of the Nasdaq Stock Market (or any successor entity) from the stockholders of the Company with respect to issuance of all of the Warrants and the Warrant Shares upon the exercise thereof.

“Stockholder Approval Date” means the date on which Stockholder Approval is received and deemed effective under Delaware law.]³

“Subsidiaries” means the subsidiaries of the Company set forth on Exhibit 21.1 to the Registration Statement and shall, where applicable, also include any direct or indirect subsidiary of the Company formed or acquired after the date hereof.

³Delete bracketed language if (i) the Per Share Purchase Price equals or exceeds the sum of (a) the applicable “Minimum Price” per share under Nasdaq rule 5635(d) and (b) \$0.125 per whole Common Warrant Share or (ii) if the Offering is treated as a public offering under Nasdaq rule 5635.

“Trading Day” means a day on which the Common Stock is traded on a Trading Market.

“Trading Market” means any of the following markets or exchanges on which the Common Stock is listed or quoted for trading on the date in question: the NYSE American, the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market or the New York Stock Exchange (or any successors to any of the foregoing).

“Transfer Agent” means Computershare Trust Company, N.A., the current transfer agent of the Company, with a mailing address of 480 Washington Blvd 26th Floor, Jersey City, NJ 07310, and any successor transfer agent of the Company.

“VWAP” means, for any date, the price determined by the first of the following clauses that applies: (a) if the Common Stock is then listed or quoted on a Trading Market, the daily volume weighted average price of the Common Stock for such date (or the nearest preceding date) on the Trading Market on which the Common Stock is then listed or quoted as reported by Bloomberg (based on a Trading Day from 9:30 a.m. (New York City time) to 4:02 p.m. (New York City time)), (b) if OTCQB or OTCQX is not a Trading Market, the volume weighted average price of the Common Stock for such date (or the nearest preceding date) on OTCQB or OTCQX as applicable, (c) if the Common Stock is not then listed or quoted for trading on OTCQB or OTCQX and if prices for the Common Stock are then reported on The Pink Open Market (or a similar organization or agency succeeding to its functions of reporting prices), the most recent bid price per share of the Common Stock so reported, or (d) in all other cases, the fair market value of a share of Common Stock as determined by an independent appraiser selected in good faith by the Holders of a majority in interest of the Warrants then outstanding and reasonably acceptable to the Company, the reasonable fees and expenses of which shall be paid by the Company.

“Warrants” means this Warrant and other Common Stock purchase warrants issued by the Company pursuant to the Registration Statement.

Section 2. Exercise.

a) Exercise of Warrant. Exercise of the purchase rights represented by this Warrant may be made, in whole or in part, at any time or times on or after the Initial Exercise Date and on or before the Termination Date by delivery to the Company of a duly executed PDF copy submitted by e-mail (or e-mail attachment) of the Notice of Exercise in the form attached hereto as Annex A (the “Notice of Exercise”). Within the earlier of (i) two (2) Trading Days and (ii) the number of Trading Days comprising the Standard Settlement Period (as defined in Section 2(d)(i) herein) following the date of exercise as aforesaid, the Holder shall deliver the aggregate Exercise Price for the Warrant Shares specified in the applicable Notice of Exercise by wire transfer or cashier’s check drawn on a United States bank, in either case in immediately available funds, unless the cashless exercise procedure specified in Section 2(c) below is specified in the applicable Notice of Exercise. No ink-original Notice of Exercise shall be required, nor shall any medallion guarantee (or other type of guarantee or notarization) of any Notice of Exercise be required. The Company shall have no obligation to inquire with respect to or otherwise confirm the authenticity of the signature(s) contained on any Notice of Exercise nor the authority of the person so executing such Notice of Exercise. Notwithstanding anything herein to the contrary, the Holder shall not be required to physically surrender this Warrant to the Company until the Holder has purchased all of the Warrant Shares available hereunder and the Warrant has been exercised in full, in which case, the Holder shall surrender this Warrant to the Company for cancellation within three (3) Trading Days of the date on which the final Notice of Exercise is delivered to the Company. Partial exercises of this Warrant resulting in purchases of a portion of the total number of Warrant Shares available hereunder shall have the effect of lowering the outstanding number of Warrant Shares purchasable hereunder in an amount equal to the applicable number of Warrant Shares purchased. The Holder and the Company shall maintain records showing the number of Warrant Shares purchased and the date of such purchases. The Company shall deliver any objection to any Notice of Exercise within one (1) Trading Day of receipt of such notice. **The Holder and any assignee, by acceptance of this Warrant, acknowledge and agree that, by reason of the provisions of this paragraph, following the purchase of a portion of the Warrant Shares hereunder, the number of Warrant Shares available for purchase hereunder at any given time may be less than the amount stated on the face hereof.**

b) Exercise Price. The exercise price per share of Common Stock under this Warrant shall be \$____, subject to adjustment hereunder (the “Exercise Price”).

c) Cashless Exercise. If at the time of exercise hereof there is no effective registration statement registering, or the prospectus contained therein is not available for the issuance of the Warrant Shares by the Holder, then this Warrant may also be exercised, in whole or in part, at such time by means of a “cashless exercise” in which the Holder shall be entitled to receive a number of Warrant Shares equal to the quotient obtained by dividing [(A-B) (X)] by (A), where:

(A) = as applicable: (i) the VWAP on the Trading Day immediately preceding the date of the applicable Notice of Exercise if such Notice of Exercise is (1) both executed and delivered pursuant to Section 2(a) hereof on a day that is not a Trading Day or (2) both executed and delivered pursuant to Section 2(a) hereof on a Trading Day prior to the opening of “regular trading hours” (as defined in Rule 600(b) of Regulation NMS promulgated under the federal securities laws) on such Trading Day, (ii) at the option of the Holder, either (y) the VWAP on the Trading Day immediately preceding the date of the applicable Notice of Exercise or (z) the Bid Price of the Common Stock on the principal Trading Market as reported by Bloomberg as of the time of the Holder’s execution of the applicable Notice of Exercise if such Notice of Exercise is executed during “regular trading hours” on a Trading Day and is delivered within two (2) hours thereafter (including until two (2) hours after the close of “regular trading hours” on a Trading Day) pursuant to Section 2(a) hereof or (iii) the VWAP on the date of the applicable Notice of Exercise if the date of such Notice of Exercise is a Trading Day and such Notice of Exercise is both executed and delivered pursuant to Section 2(a) hereof after the close of “regular trading hours” on such Trading Day;

(B) = the Exercise Price of this Warrant, as adjusted hereunder; and

(X) = the number of Warrant Shares that would be issuable upon exercise of this Warrant in accordance with the terms of this Warrant if such exercise were by means of a cash exercise rather than a cashless exercise.

If Warrant Shares are issued in such a cashless exercise, the parties acknowledge and agree that in accordance with Section 3(a)(9) of the Securities Act, the Warrant Shares shall take on the registered characteristics of the Warrants being exercised. The Company agrees not to take any position contrary to this Section 2(c).

d) Mechanics of Exercise.

i. Delivery of Warrant Shares Upon Exercise. The Company shall cause the Warrant Shares purchased hereunder to be transmitted by the Transfer Agent to the Holder by crediting the account of the Holder's or its designee's balance account with the Depository Trust Company through its Deposit or Withdrawal at Custodian system ("DWAC") if the Company's transfer agent is then a participant in such system and either (A) there is an effective registration statement permitting the issuance of the Warrant Shares to or resale of the Warrant Shares by the Holder or (B) this Warrant is being exercised via cashless exercise, and otherwise by physical delivery of a certificate, registered in the Company's share register in the name of the Holder or its designee, for the number of Warrant Shares to which the Holder is entitled pursuant to such exercise to the address specified by the Holder in the Notice of Exercise by the date that is the earliest of (i) two (2) Trading Days after the delivery to the Company of the Notice of Exercise, (ii) one (1) Trading Day after delivery of the aggregate Exercise Price to the Company and (iii) the number of Trading Days comprising the Standard Settlement Period after the delivery to the Company of the Notice of Exercise (such date, the "Warrant Share Delivery Date"). Upon delivery of the Notice of Exercise, the Holder shall be deemed for all corporate purposes to have become the holder of record of the Warrant Shares with respect to which this Warrant has been exercised, irrespective of the date of delivery of the Warrant Shares, provided that payment of the aggregate Exercise Price (other than in the case of a cashless exercise) is received within the earlier of (i) two (2) Trading Days and (ii) the number of Trading Days comprising the Standard Settlement Period following delivery of the Notice of Exercise. If the Company fails for any reason to deliver to the Holder the Warrant Shares subject to a Notice of Exercise by the Warrant Share Delivery Date, the Company shall pay to the Holder, in cash, as liquidated damages and not as a penalty, for each \$1,000 of Warrant Shares subject to such exercise (based on the VWAP of the Common Stock on the date of the applicable Notice of Exercise), \$10 per Trading Day (increasing to \$20 per Trading Day on the third Trading Day after the Warrant Share Delivery Date) for each Trading Day after such Warrant Share Delivery Date until such Warrant Shares are delivered or Holder rescinds such exercise. The Company agrees to maintain a transfer agent that is a participant in the FAST program so long as this Warrant remains outstanding and exercisable. As used herein, "Standard Settlement Period" means the standard settlement period, expressed in a number of Trading Days, on the Company's primary Trading Market with respect to the Common Stock as in effect on the date of the delivery of the Notice of Exercise.

ii. Delivery of New Warrants Upon Exercise. If this Warrant shall have been exercised in part, the Company shall, at the request of a Holder and upon surrender of this Warrant, at the time of delivery of the Warrant Shares, deliver to the Holder a new Warrant evidencing the rights of the Holder to purchase the unpurchased Warrant Shares remaining available under this Warrant, which new Warrant shall in all other respects be identical with this Warrant.

iii. Rescission Rights. If the Company fails to cause the Transfer Agent to transmit to the Holder the Warrant Shares pursuant to Section 2(d)(i) by the Warrant Share Delivery Date, then the Holder will have the right to rescind such exercise.

iv. Compensation for Buy-In on Failure to Timely Deliver Warrant Shares Upon Exercise. In addition to any other rights available to the Holder, if the Company fails to cause the Transfer Agent to transmit to the Holder the Warrant Shares in accordance with the provisions of Section 2(d)(i) above pursuant to an exercise on or before the Warrant Share Delivery Date, and if after such date the Holder is required by its broker to purchase (in an open market transaction or otherwise) or the Holder's brokerage firm otherwise purchases, shares of Common Stock to deliver in satisfaction of a sale by the Holder of the Warrant Shares which the Holder anticipated receiving upon such exercise (a "Buy-In"), then the Company shall (A) pay in cash to the Holder the amount, if any, by which (x) the Holder's total purchase price (including reasonable and customary brokerage commissions, if any) for the shares of Common Stock so purchased exceeds (y) the amount obtained by multiplying (1) the number of Warrant Shares that the Company was required to deliver to the Holder in connection with the exercise at issue times (2) the price at which the sell order giving rise to such purchase obligation was executed, and (B) at the option of the Holder, either reinstate the portion of the Warrant and equivalent number of Warrant Shares for which such exercise was not honored (in which case such exercise shall be deemed rescinded) or deliver to the Holder the number of shares of Common Stock that would have been issued had the Company timely complied with its exercise and delivery obligations hereunder. For example, if the Holder purchases Common Stock having a total purchase price of \$11,000 to cover a Buy-In with respect to an attempted exercise of shares of Common Stock with an aggregate sale price giving rise to such purchase obligation of \$10,000, under clause (A) of the immediately preceding sentence the Company shall be required to pay the Holder \$1,000. The Holder shall provide the Company written notice indicating the amounts payable to the Holder in respect of the Buy-In and, upon request of the Company, evidence of the amount of such loss. Nothing herein shall limit a Holder's right to pursue any other remedies available to it hereunder, at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief with respect to the Company's failure to timely deliver shares of Common Stock upon exercise of the Warrant as required pursuant to the terms hereof.

v. No Fractional Shares or Scrip. No fractional shares or scrip representing fractional shares shall be issued upon the exercise of this Warrant. As to any fraction of a share which the Holder would otherwise be entitled to purchase upon such exercise, the Company shall, at its election, either pay a cash adjustment in respect of such final fraction in an amount equal to such fraction multiplied by the Exercise Price or round up to the next whole share.

vi. Charges, Taxes and Expenses. Issuance of Warrant Shares shall be made without charge to the Holder for any issue or transfer tax or other incidental expense in respect of the issuance of such Warrant Shares, all of which taxes and expenses shall be paid by the Company, and such Warrant Shares shall be issued in the name of the Holder or in such name or names as may be directed by the Holder; provided, however, that in the event that Warrant Shares are to be issued in a name other than the name of the Holder, this Warrant when surrendered for exercise shall be accompanied by the assignment form attached hereto as Annex B (the "Assignment Form") duly executed by the Holder and the Company may require, as a condition thereto, the payment of a sum sufficient to reimburse it for any transfer tax incidental thereto. The Company shall pay all Transfer Agent fees required for same-day processing of any Notice of Exercise and all fees to the Depository Trust Company (or another established clearing corporation performing similar functions) required for same-day electronic delivery of the Warrant Shares.

vii. Closing of Books. The Company will not close its stockholder books or records in any manner which prevents the timely exercise of this Warrant, pursuant to the terms hereof.

e) Beneficial Ownership Limitations. The Company shall not effect any exercise of this Warrant, and a Holder shall not have the right to exercise any portion of this Warrant, pursuant to Section 2 or otherwise, to the extent that after giving effect to such issuance after exercise as set forth on the applicable Notice of Exercise, the Holder (together with the Holder's Affiliates, and any other Persons acting as a group together with the Holder or any of the Holder's Affiliates (such Persons, "Attribution Parties")), would beneficially own in excess of the Beneficial Ownership Limitation (as defined below). For purposes of the foregoing sentence, the number of shares of Common Stock beneficially owned by the Holder and its Affiliates and Attribution Parties shall include the number of shares of Common Stock issuable upon exercise of this Warrant with respect to which such determination is being made, but shall exclude the number of shares of Common Stock which would be issuable upon (i) exercise of the remaining, nonexercised portion of this Warrant beneficially owned by the Holder or any of its Affiliates or Attribution Parties and (ii) exercise or conversion of the unexercised or nonconverted portion of any other securities of the Company (including, without limitation, any other Common Stock Equivalents) subject to a limitation on conversion or exercise analogous to the limitation contained herein beneficially owned by the Holder or any of its Affiliates or Attribution Parties. Except as set forth in the preceding sentence, for purposes of this Section 2(e), beneficial ownership shall be calculated in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder, it being acknowledged by the Holder that the Company is not representing to the Holder that such calculation is in compliance with Section 13(d) of the Exchange Act and the Holder is solely responsible for any schedules required to be filed in accordance therewith and the calculations required under this Section 2(e). To the extent that the limitation contained in this Section 2(e) applies, the determination of whether this Warrant is exercisable (in relation to other securities owned by the Holder together with any Affiliates and Attribution Parties) and of which portion of this Warrant is exercisable shall be in the sole discretion of the Holder, and the submission of a Notice of Exercise shall be deemed to be the Holder's determination of whether this Warrant is exercisable (in relation to other securities owned by the Holder together with any Affiliates and Attribution Parties) and of which portion of this Warrant is exercisable, in each case subject to the Beneficial Ownership Limitation, and the Company shall have no obligation to verify or confirm the accuracy of such determination. In addition, a determination as to any group status as contemplated above shall be determined in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder. For purposes of this Section 2(e), in determining the number of outstanding shares of Common Stock, a Holder may rely on the number of outstanding shares of Common Stock as reflected in (A) the Company's most recent periodic or annual report filed with the Commission, as the case may be, (B) a more recent public announcement by the Company or (C) a more recent written notice by the Company or the Transfer Agent setting forth the number of shares of Common Stock outstanding. Upon the written or oral request of a Holder, the Company shall within one (1) Trading Day confirm orally and in writing to the Holder the number of shares of Common Stock then outstanding. In any case, the number of outstanding shares of Common Stock shall be determined after giving effect to the conversion or exercise of securities of the Company, including this Warrant, by the Holder or its Affiliates or Attribution Parties since the date as of which such number of outstanding shares of Common Stock was reported. The "Beneficial Ownership Limitation" shall be 4.99% of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock issuable upon exercise of this Warrant. The Holder, upon notice to the Company, may increase or decrease the Beneficial Ownership Limitation provisions of this Section 2(e), provided that the Beneficial Ownership Limitation in no event exceeds 9.99% of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock upon exercise of this Warrant held by the Holder and the provisions of this Section 2(e) shall continue to apply. Any increase in the Beneficial Ownership Limitation will not be effective until the 61st day after such notice is delivered to the Company. The provisions of this Section 2(e) shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this Section 2(e) to correct this Section 2(e) (or any portion hereof) which may be defective or inconsistent with the intended Beneficial Ownership Limitation herein contained or to make changes or supplements necessary or desirable to properly give effect to such limitation. The limitations contained in this Section 2(e) shall apply to a successor holder of this Warrant.

Section 3. Certain Adjustments.

a) Stock Dividends and Splits. If the Company, at any time while this Warrant is outstanding: (i) pays a stock dividend or otherwise makes a distribution or distributions on shares of its Common Stock or any other equity or equity equivalent securities payable in shares of Common Stock (which, for avoidance of doubt, shall not include any shares of Common Stock issued by the Company upon exercise of this Warrant), (ii) subdivides outstanding shares of Common Stock into a larger number of shares, (iii) combines (including by way of reverse stock split) outstanding shares of Common Stock into a smaller number of shares, or (iv) issues by reclassification of shares of the Common Stock any shares of capital stock of the Company, then in each case the Exercise Price shall be multiplied by a fraction of which the numerator shall be the number of shares of Common Stock (excluding treasury shares, if any) outstanding immediately before such event and of which the denominator shall be the number of shares of Common Stock outstanding immediately after such event, and the number of shares issuable upon exercise of this Warrant shall be proportionately adjusted such that the aggregate Exercise Price of this Warrant shall remain unchanged. Any adjustment made pursuant to this Section 3(a) shall become effective immediately after the record date for the determination of stockholders entitled to receive such dividend or distribution and shall become effective immediately after the effective date in the case of a subdivision, combination or reclassification.

b) Subsequent Rights Offerings. In addition to any adjustments pursuant to Section 3(a) above, if at any time while this Warrant is outstanding the Company grants, issues or sells any Common Stock Equivalents or rights to purchase stock, warrants, securities or other property pro rata to the record holders of any class of shares of Common Stock (the "Purchase Rights"), then the Holder will be entitled to acquire, upon the terms applicable to such Purchase Rights, the aggregate Purchase Rights which the Holder could have acquired if the Holder had held the number of shares of Common Stock acquirable upon complete exercise of this Warrant (without regard to any limitations on exercise hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date on which a record is taken for the grant, issuance or sale of such Purchase Rights, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the grant, issue or sale of such Purchase Rights (provided, however, that to the extent that the Holder's right to participate in any such Purchase Right would result in the Holder exceeding the Beneficial Ownership Limitation, then the Holder shall not be entitled to participate in such Purchase Right to such extent (or beneficial ownership of such shares of Common Stock as a result of such Purchase Right to such extent) and such Purchase Right to such extent shall be held in abeyance for the Holder until such time, if ever, as its right thereto would not result in the Holder exceeding the Beneficial Ownership Limitation); provided, that such Purchase Right shall terminate on, and shall not be held in abeyance for any period subsequent to the Termination Date.

c) Pro Rata Distributions. During such time as this Warrant is outstanding, if the Company shall declare or make any dividend or other distribution of its assets (or rights to acquire its assets) to holders of shares of Common Stock, by way of return of capital or otherwise, other than cash (including, without limitation, any distribution of stock or other securities, property or options by way of a dividend, spin off, reclassification, corporate rearrangement, scheme of arrangement or other similar transaction) (a "Distribution"), at any time after the issuance of this Warrant, then, in each such case, the Holder shall be entitled to participate in such Distribution to the same extent that the Holder would have participated therein if the Holder had held the number of shares of Common Stock acquirable upon complete exercise of this Warrant (without regard to any limitations on exercise hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date of which a record is taken for such Distribution, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the participation in such Distribution (provided, however, that to the extent that the Holder's right to participate in any such Distribution would result in the Holder exceeding the Beneficial Ownership Limitation, then the Holder shall not be entitled to participate in such Distribution to such extent (or in the beneficial ownership of any shares of Common Stock as a result of such Distribution to such extent) and the portion of such Distribution shall be held in abeyance for the benefit of the Holder until such time, if ever, as its right thereto would not result in the Holder exceeding the Beneficial Ownership Limitation); provided, that such Purchase Right shall terminate on, and shall not be held in abeyance for any period subsequent to the Termination Date.

d) Fundamental Transaction. If, at any time while this Warrant is outstanding, (i) the Company (and all of its Subsidiaries, taken as a whole), directly or indirectly, in one or more related transactions effects any merger or consolidation of the Company with or into another Person (other than for the purpose of changing the Company's name and/or the jurisdiction of incorporation of the Company or a holding company for the Company), (ii) the Company, directly or indirectly, effects any sale, lease, license, assignment, transfer, conveyance or other disposition of all or substantially all of its assets in one or a series of related transactions, (iii) any, direct or indirect, purchase offer, tender offer or exchange offer (whether by the Company or another Person) is completed pursuant to which holders of the outstanding equity securities of the Company having voting power, including the power to vote on the election of directors of the Company, are permitted to sell, tender or exchange their securities for other securities, cash or property and has been accepted by the holders of the outstanding securities representing more than 50% of the aggregate voting power, including the power to vote on the election of directors of the Company, of the issued and outstanding equity securities of the Company, (iv) the Company, directly or indirectly, in one or more related transactions effects any reclassification, reorganization or recapitalization of the Common Stock or any compulsory share exchange pursuant to which the Common Stock is effectively converted into or exchanged for other securities, cash or property, or (v) the Company, directly or indirectly, in one or more related transactions consummates a stock or share purchase agreement or other business combination (including, without limitation, a reorganization, recapitalization, spin-off, merger or scheme of arrangement) with another Person or group of Persons whereby such other Person or group acquires securities representing more than 50% of the aggregate voting power, including the power to vote on the election of directors of the Company, of the issued and outstanding equity securities of the Company (each a "Fundamental Transaction"), then, upon any subsequent exercise of this Warrant, the Holder shall have the right to receive, for each Warrant Share that would have been issuable upon such exercise immediately prior to the occurrence of such Fundamental Transaction, at the option of the Holder (without regard to any limitation in Section 2(d) on the exercise of this Warrant), the number of shares of Common Stock of the successor or acquiring corporation or of the Company, if it is the surviving corporation, and any additional consideration (the "Alternate Consideration") receivable as a result of such Fundamental Transaction by a holder of the number of shares of Common Stock for which this Warrant is exercisable immediately prior to such Fundamental Transaction (without regard to any limitation in Section 2(e) on the exercise of this Warrant). For purposes of any such exercise, the determination of the Exercise Price shall be appropriately adjusted to apply to such Alternate Consideration based on the amount of Alternate Consideration issuable in respect of one share of Common Stock in such Fundamental Transaction, and the Company shall apportion the Exercise Price among the Alternate Consideration in a reasonable manner reflecting the relative value of any different components of the Alternate Consideration. If holders of Common Stock are given any choice as to the securities, cash or property to be received in a Fundamental Transaction, then the Holder shall be given the same choice as to the Alternate Consideration it receives upon any exercise of this Warrant following such Fundamental Transaction. Notwithstanding anything to the contrary, in the event of a Fundamental Transaction (other than (x) any stock split or reverse stock split, (y) any transaction effected solely for the purpose of changing the jurisdiction of incorporation of the Company, or (z) any holding company reorganization or parent-subsidiary merger not requiring stockholder approval pursuant to Sections 251(g) or 253 of the Delaware General Corporation Law (or any successor provisions thereof)), and for the avoidance of doubt, the Fundamental Transaction is approved by the Company's board of directors and within the control of the Company, the Company or any Successor Entity (as defined below) shall, at the Holder's option, exercisable at any time concurrently with, or within 30 days after, the consummation of the Fundamental Transaction (or, if later, the date of the public announcement of the applicable Fundamental Transaction), purchase this Warrant from the Holder by paying to the Holder an amount of cash equal to the Black Scholes Value (as defined below) of the remaining unexercised portion of this Warrant on the date of the consummation of such Fundamental Transaction; provided, however, if the Fundamental Transaction is not within the Company's control, including not approved by the Company's Board of Directors, Holder shall only be entitled to receive from the Company or any Successor Entity, as of the date of consummation of such Fundamental Transaction, the same type or form of consideration (and in the same proportion), at the Black Scholes Value of the unexercised portion of this Warrant, that is being offered and paid to the holders of Common Stock of the Company in connection with the Fundamental Transaction, whether that consideration be in the form of cash, stock or any combination thereof, or whether the holders of Common Stock are given the choice to receive from among alternative forms of consideration in connection with the Fundamental Transaction; provided, further, that if holders of Common Stock of the Company are not offered or paid any consideration in such Fundamental Transaction, such holders of Common Stock will be deemed to have received common stock of the Successor Entity (which Successor Entity may be the Company following such Fundamental Transaction) in such Fundamental Transaction. "Black Scholes Value" means the value of this Warrant based on the Black Scholes Option Pricing Model obtained from the "OV" function on Bloomberg determined as of the day of consummation of the applicable Fundamental Transaction for pricing purposes and reflecting (A) a risk-free interest rate corresponding to the U.S. Treasury rate for a period equal to the time between the date of the public announcement of the applicable Fundamental Transaction and the Termination Date, (B) an expected volatility equal to the 100 day volatility obtained from the HVT function on Bloomberg (determined utilizing a 365-day annualization factor) as of the Trading Day immediately following the public announcement of the applicable Fundamental Transaction, (C) the underlying price per share used in such calculation shall be the sum of the price per share being offered in cash, if any, plus the value of any non-cash consideration, if any, being offered in such Fundamental Transaction, (D) a remaining option time equal to the time between the date of the public announcement of the applicable Fundamental Transaction and the Termination Date and (E) a zero cost of borrow. The payment of the Black Scholes Value will be made by wire transfer of immediately available funds within five (5) Trading Days of the Holder's election (or, if later, on the effective date of the Fundamental Transaction). The Company shall require any successor entity in a Fundamental Transaction in which the Company is not the survivor (the "Successor Entity") to assume in writing all of the obligations of the Company under this Warrant and the other Transaction Documents in accordance with the provisions of this Section 3(d) pursuant to written agreements in form and substance reasonably satisfactory to the Holder and approved by the Holder (without unreasonable delay) prior to such Fundamental Transaction and shall, at the option of the Holder, deliver to the Holder in exchange for this Warrant a security of the Successor Entity evidenced by a written instrument substantially similar in form and substance to this Warrant which is exercisable for a corresponding number of shares of capital stock of such Successor Entity (or its parent entity) equivalent to the shares of Common Stock acquirable and receivable upon exercise of this Warrant (without regard to any limitations on the exercise of this Warrant) prior to such Fundamental Transaction, and with an exercise price which applies the exercise price hereunder to such shares of capital stock (but taking into account the relative value of the shares of Common Stock pursuant to such Fundamental Transaction and the value of such shares of capital stock, such number of shares of capital stock and such exercise price being for the purpose of protecting the economic value of this Warrant immediately prior to the consummation of such Fundamental Transaction), and which is reasonably satisfactory in form and substance to the Holder. Upon the occurrence of any such Fundamental Transaction, the Successor Entity shall succeed to, and be substituted for (so that from and after the date of such Fundamental Transaction, the provisions of this Warrant and the other Transaction Documents referring to the "Company" shall refer instead to the Successor Entity), and may exercise every right and power of the Company and shall assume all of the obligations of the Company under this Warrant and the other Transaction Documents with the same effect as if such Successor Entity had been named as the Company herein. For the avoidance of doubt, the Holder shall be entitled to the benefits of the provisions of this Section 3(e) regardless of whether the Company has sufficient authorized shares of Common Stock for the issuance of Warrant Shares.

e) Calculations. All calculations under this Section 3 shall be made to the nearest cent or the nearest 1/100th of a share, as the case may be. For purposes of this Section 3, the number of shares of Common Stock deemed to be issued and outstanding as of a given date shall be the sum of the number of shares of Common Stock (excluding treasury shares, if any) issued and outstanding.

f) Notice to Holder.

i. Adjustment to Exercise Price. Whenever the Exercise Price is adjusted pursuant to any provision of this Section 3, the Company shall promptly deliver to the Holder by email a notice setting forth the Exercise Price after such adjustment and any resulting adjustment to the number of Warrant Shares and setting forth a brief statement of the facts requiring such adjustment.

ii. Notice to Allow Exercise by Holder. If (A) the Company shall declare a dividend (or any other distribution in whatever form) on the Common Stock, (B) the Company shall declare a special nonrecurring cash dividend on or a redemption of the Common Stock, (C) the Company shall authorize the granting to all holders of the Common Stock rights or warrants to subscribe for or purchase any shares of capital stock of any class or of any rights, (D) the approval of any stockholders of the Company shall be required in connection with any reclassification of the Common Stock, any consolidation or merger to which the Company (and all of its Subsidiaries, taken as a whole) is a party, any sale or transfer of all or substantially all of the assets of the Company, or any compulsory share exchange whereby the Common Stock is converted into other securities, cash or property, or (E) the Company shall authorize the voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Company, then, in each case, the Company shall cause to be delivered by email to the Holder at its last email or other address as it shall appear upon the Warrant Register of the Company, at least 20 calendar days prior to the applicable record or effective date hereinafter specified, a notice stating (x) the date on which a record is to be taken for the purpose of such dividend, distribution, redemption, rights or warrants, or if a record is not to be taken, the date as of which the holders of the Common Stock of record to be entitled to such dividend, distributions, redemption, rights or warrants are to be determined or (y) the date on which such reclassification, consolidation, merger, sale, transfer or share exchange is expected to become effective or close, and the date as of which it is expected that holders of the Common Stock of record shall be entitled to exchange their shares of the Common Stock for securities, cash or other property deliverable upon such reclassification, consolidation, merger, sale, transfer or share exchange; provided that the failure to deliver such notice or any defect therein or in the delivery thereof shall not affect the validity of the corporate action required to be specified in such notice. To the extent that any notice provided in this Warrant constitutes, or contains, material, non-public information regarding the Company or any of the Subsidiaries, the Company shall simultaneously file such notice with the Commission pursuant to a Current Report on Form 8-K. The Holder shall remain entitled to exercise this Warrant during the period commencing on the date of such notice to the effective date of the event triggering such notice except as may otherwise be expressly set forth herein.

Section 4. Transfer of Warrant.

a) Transferability. This Warrant and all rights hereunder (including, without limitation, any registration rights) are transferable, in whole or in part, upon surrender of this Warrant at the principal office of the Company or its designated agent, together with a written assignment of this Warrant substantially in the form attached hereto duly executed by the Holder or its agent or attorney and funds sufficient to pay any transfer taxes payable upon the making of such transfer. Upon such surrender and, if required, such payment, the Company shall execute and deliver a new Warrant or Warrants in the name of the assignee or assignees, as applicable, and in the denomination or denominations specified in such instrument of assignment, and shall issue to the assignor a new Warrant evidencing the portion of this Warrant not so assigned, and this Warrant shall promptly be cancelled. Notwithstanding anything herein to the contrary, the Holder shall not be required to physically surrender this Warrant to the Company unless the Holder has assigned this Warrant in full, in which case, the Holder shall surrender this Warrant to the Company within three (3) Trading Days of the date on which the Holder delivers a duly executed Assignment Form to the Company assigning this Warrant in full. The Warrant, if properly assigned in accordance herewith, may be exercised by a new holder for the purchase of Warrant Shares without having a new Warrant issued.

b) New Warrants. This Warrant may be divided or combined with other Warrants upon presentation hereof at the aforesaid office of the Company, together with a written notice specifying the names and denominations in which new Warrants are to be issued, signed by the Holder or its agent or attorney. Subject to compliance with Section 4(a), as to any transfer which may be involved in such division or combination, the Company shall execute and deliver a new Warrant or Warrants in exchange for the Warrant or Warrants to be divided or combined in accordance with such notice. All Warrants issued on transfers or exchanges shall be dated the initial issuance date of this Warrant and shall be identical with this Warrant except as to the number of Warrant Shares issuable pursuant thereto.

c) Warrant Register. The Company shall register this Warrant, upon records to be maintained by the Company for that purpose (the "Warrant Register"), in the name of the record Holder hereof from time to time. The Company may deem and treat the registered Holder of this Warrant as the absolute owner hereof for the purpose of any exercise hereof or any distribution to the Holder, and for all other purposes, absent actual notice to the contrary.

Section 5. Miscellaneous.

a) No Rights as Stockholder Until Exercise; No Settlement in Cash. This Warrant does not entitle the Holder to any voting rights, dividends or other rights as a stockholder of the Company prior to the exercise hereof as set forth in Section 2(d)(i), except as expressly set forth in Section 3. Without limiting any rights of a Holder to receive Warrant Shares on a “cashless exercise” pursuant to Section 2(c) or to receive cash payments pursuant to Section 2(d)(i) and Section 2(d)(iv) herein, in no event shall the Company be required to net cash settle an exercise of this Warrant.

b) Loss, Theft, Destruction or Mutilation of Warrant. The Company covenants that upon receipt by the Company of evidence reasonably satisfactory to it of the loss, theft, destruction or mutilation of this Warrant or any stock certificate relating to the Warrant Shares, and in case of loss, theft or destruction, of indemnity or security reasonably satisfactory to it (which, in the case of the Warrant, shall not include the posting of any bond), and upon surrender and cancellation of such Warrant or stock certificate, if mutilated, the Company will make and deliver a new Warrant or stock certificate of like tenor and dated as of such cancellation, in lieu of such Warrant or stock certificate.

c) Saturdays, Sundays, Holidays, etc. If the last or appointed day for the taking of any action or the expiration of any right required or granted herein shall not be a Trading Day, then such action may be taken or such right may be exercised on the next succeeding Trading Day.

d) Authorized Shares.

The Company covenants that during the period the Warrant is outstanding, it will reserve from its authorized and unissued Common Stock a sufficient number of shares to provide for the issuance of the Warrant Shares upon the exercise of any purchase rights under this Warrant. The Company further covenants that its issuance of this Warrant shall constitute full authority to its officers who are charged with the duty of issuing the necessary Warrant Shares upon the exercise of the purchase rights under this Warrant. The Company will take such reasonable action as may be necessary to assure that such Warrant Shares may be issued as provided herein without violation of any applicable law or regulation, or of any requirements of the Trading Market upon which the Common Stock may be listed. The Company covenants that all Warrant Shares which may be issued upon the exercise of the purchase rights represented by this Warrant will, upon exercise of the purchase rights represented by this Warrant and payment for such Warrant Shares in accordance herewith, be duly authorized, validly issued, fully paid and nonassessable and free from all taxes, liens and charges created by the Company in respect of the issue thereof (other than taxes in respect of any transfer occurring contemporaneously with such issue).

Except and to the extent as waived or consented to by the Holder, the Company shall not by any action, including, without limitation, amending its certificate of incorporation or through any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Warrant, but will at all times in good faith assist in the carrying out of all such terms and in the taking of all such actions as may be necessary or appropriate to protect the rights of Holder as set forth in this Warrant against impairment. Without limiting the generality of the foregoing, the Company will (i) not increase the par value of any Warrant Shares above the amount payable therefor upon such exercise immediately prior to such increase in par value, (ii) take such action as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and nonassessable Warrant Shares upon the exercise of this Warrant and (iii) use commercially reasonable efforts to obtain all such authorizations, exemptions or consents from any public regulatory body having jurisdiction thereof, as may be, necessary to enable the Company to perform its obligations under this Warrant.

Before taking any action which would result in an adjustment in the number of Warrant Shares for which this Warrant is exercisable or in the Exercise Price, the Company shall obtain all such authorizations or exemptions thereof, or consents thereto, as may be necessary from any public regulatory body or bodies having jurisdiction thereof.

e) Jurisdiction. All questions concerning the construction, validity, enforcement and interpretation of this Warrant shall be governed by and construed and enforced in accordance with the internal laws of the State of New York, without regard to the principles of conflicts of law thereof. The Company and, by accepting this Warrant, the Holder each agrees that all legal proceedings concerning the interpretations, enforcement and defense of the transactions contemplated by this Warrant (whether brought against the Company or the Holder or their respective affiliates, directors, officers, shareholders, partners, members, employees or agents) shall be commenced exclusively in the state and federal courts sitting in the City of New York. The Company and, by accepting this Warrant, the Holder each hereby irrevocably submits to the exclusive jurisdiction of the state and federal courts sitting in the City of New York, Borough of Manhattan for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein, and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of any such court, that such suit, action or proceeding is improper or is an inconvenient venue for such proceeding. The Company and, by accepting this Warrant, the Holder each hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a copy thereof via registered or certified mail or overnight delivery (with evidence of delivery) to it at the address in effect for notices to it under this Warrant and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any other manner permitted by law. If the Company or the Holder shall commence an action, suit or proceeding to enforce any provisions of this Warrant, the prevailing party in such action, suit or proceeding shall be reimbursed by the other party for their reasonable attorneys' fees and other costs and expenses incurred with the investigation, preparation and prosecution of such action or proceeding.

f) Restrictions. The Holder acknowledges that the Warrant Shares acquired upon the exercise of this Warrant, if not registered, and the Holder does not utilize cashless exercise, will have restrictions upon resale imposed by state and federal securities laws.

g) Nonwaiver and Expenses. No course of dealing or any delay or failure to exercise any right hereunder on the part of Holder shall operate as a waiver of such right or otherwise prejudice the Holder's rights, powers or remedies. Without limiting any other provision of this Warrant, if the Company willfully and knowingly fails to comply with any provision of this Warrant, which results in any material damages to the Holder, the Company shall pay to the Holder such amounts as shall be sufficient to cover any costs and expenses including, but not limited to, reasonable attorneys' fees, including those of appellate proceedings, incurred by the Holder in collecting any amounts due pursuant hereto or in otherwise enforcing any of its rights, powers or remedies hereunder.

h) Notices. Any and all notices or other communications or deliveries to be provided by the Holder hereunder including, without limitation, any Notice of Exercise, shall be in writing and delivered personally, by email or sent by a nationally recognized overnight courier service, addressed to the Company, at 1901 W. 47th Place, Kansas City, KS 66205, Attention: Shane J. Schaffer, CEO, email address: sschaffer@cingulate.com, or such other email address or address as the Company may specify for such purposes by notice to the Holder. Any and all notices or other communications or deliveries to be provided by the Company hereunder shall be in writing and delivered personally, by email, or sent by a nationally recognized overnight courier service addressed to the Holder at the email address or address of the Holder appearing on the books of the Company. Any notice or other communication or deliveries hereunder shall be deemed given and effective on the earliest of (i) the time of transmission, if such notice or communication is delivered via email at the email address set forth in this Section prior to 5:30 p.m. (New York City time) on any date, (ii) the next Trading Day after the time of transmission, if such notice or communication is delivered via email at the email address set forth in this Section on a day that is not a Trading Day or later than 5:30 p.m. (New York City time) on any Trading Day, (iii) the second Trading Day following the date of mailing, if sent by U.S. nationally recognized overnight courier service, or (iv) upon actual receipt by the party to whom such notice is required to be given. To the extent that any notice provided by the Company hereunder constitutes, or contains, material, non-public information regarding the Company or any subsidiaries, the Company shall simultaneously file such notice with the Commission pursuant to a Current Report on Form 8-K.

i) Limitation of Liability. No provision hereof, in the absence of any affirmative action by the Holder to exercise this Warrant to purchase Warrant Shares, and no enumeration herein of the rights or privileges of the Holder, shall give rise to any liability of the Holder for the purchase price of any Common Stock or as a stockholder of the Company, whether such liability is asserted by the Company or by creditors of the Company.

j) Remedies. The Holder, in addition to being entitled to exercise all rights granted by law, including recovery of damages, will be entitled to specific performance of its rights under this Warrant. The Company agrees that monetary damages would not be adequate compensation for any loss incurred by reason of a breach by it of the provisions of this Warrant and hereby agrees to waive and not to assert the defense in any action for specific performance that a remedy at law would be adequate.

k) Successors and Assigns. Subject to applicable securities laws, this Warrant and the rights and obligations evidenced hereby shall inure to the benefit of and be binding upon the successors and permitted assigns of the Company and the successors and permitted assigns of Holder. The provisions of this Warrant are intended to be for the benefit of any Holder from time to time of this Warrant and shall be enforceable by such Holder or holder of Warrant Shares.

l) Amendment. This Warrant may be modified or amended or the provisions hereof waived with the written consent of the Company, on the one hand and the Holder, on the other hand.

m) Severability. Wherever possible, each provision of this Warrant shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Warrant shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions or the remaining provisions of this Warrant.

n) Headings. The headings used in this Warrant are for the convenience of reference only and shall not, for any purpose, be deemed a part of this Warrant.

o) Electronic Signatures. Electronically scanned and transmitted signatures, including by email attachment, shall be deemed originals for all purposes of this Warrant.

(Signature Page Follows)

IN WITNESS WHEREOF, the Company has caused this Warrant to be executed by its officer thereunto duly authorized as of the date first above indicated.

CINGULATE INC.

By: _____

Name: Shane J. Schaffer

Title: Chief Executive Officer

NOTICE OF EXERCISE

TO: CINGULATE INC.

(1) The undersigned hereby elects to purchase _____ Warrant Shares of the Company pursuant to the terms of the attached Warrant (only if exercised in full), and tenders herewith payment of the exercise price in full, together with all applicable transfer taxes, if any.

(2) Payment shall take the form of (check applicable box):

- ☐ in lawful money of the United States; or
- ☐ if permitted the cancellation of such number of Warrant Shares as is necessary, in accordance with the formula set forth in subsection 2(c), to exercise this Warrant with respect to the maximum number of Warrant Shares purchasable pursuant to the cashless exercise procedure set forth in subsection 2(c).

(3) Please issue said Warrant Shares in the name of the undersigned or in such other name as is specified below:

The Warrant Shares shall be delivered to the following DWAC Account Number:

[SIGNATURE OF HOLDER]

Name of Investing Entity: _____
Signature of Authorized Signatory of Investing Entity: _____
Name of Authorized Signatory: _____
Title of Authorized Signatory: _____
Date: _____

Annex B

ASSIGNMENT FORM

(To assign the foregoing Warrant, execute this form and supply required information. Do not use this form to exercise the Warrant to purchase shares.)

FOR VALUE RECEIVED, the foregoing Warrant and all rights evidenced thereby are hereby assigned to

Name: _____
(Please Print)

Address: _____
(Please Print)

Phone Number: _____

Email Address: _____

Dated: _____, _____

Holder’s Signature: _____

Holder’s Address: _____

January 29, 2024

Cingulate Inc.
1901 W. 47th Place
Kansas City, KS 66205

Ladies and Gentlemen:

We have acted as counsel to Cingulate Inc., a Delaware corporation (the “**Company**”), in connection with the preparation and filing of the Registration Statement on Form S-1 (Registration No. 333-276502) filed with the Securities and Exchange Commission (the “**Commission**”) under the Securities Act of 1933, as amended (the “**Securities Act**”) (as amended, the “**Registration Statement**”), and the related prospectus contained therein (the “**Prospectus**”). We are rendering this opinion in connection with the filing by the Company of the Registration Statement relating to the offer and sale by the Company (the “**Offering**”) of up to: (i) \$10,000,000 of (A) shares (the “**Shares**”) of common stock, par value \$0.0001 per share, of the Company (the “**Common Stock**”), (B) pre-funded warrants to purchase shares of Common Stock (the “**Pre-Funded Warrants**”), (C) the shares of Common Stock issuable from time to time upon exercise of the Pre-funded Warrants (the “**Pre-Funded Warrant Shares**”), (D) series A warrants to purchase shares of Common Stock (the “**Series A Warrants**”), (E) shares of Common Stock issuable from time to time upon exercise of the Series A Warrants (the “**Series A Warrant Shares**”), (F) series B warrants to purchase shares of Common Stock (the “**Series B Warrants**,” together with the Series A Warrants, the “**Investor Warrants**”) and (G) shares of Common Stock issuable from time to time upon the exercise of the Series B Warrants (the “**Series B Warrant Shares**,” together with the Series A Warrant Shares, the “**Investor Warrant Shares**”); and (ii) warrants (the “**Placement Agent Warrants**”) to purchase up to an amount of shares of Common Stock equal to 8.0% of the shares of Common Stock and Pre-Funded Warrants sold in the offering as contemplated pursuant to the Registration Statement (the “**Placement Agent Warrant Shares**,” and, together with the Shares, the Investor Warrants, the Investor Warrant Shares, the Pre-Funded Warrants and the Pre-Funded Warrant Shares, the “**Securities**”). The Securities are to be issued and sold by the Company pursuant to the Registration Statement.

In connection with this opinion, we have examined originals or copies (certified or otherwise identified to our satisfaction) of (i) the Company’s Amended and Restated Certificate of Incorporation as currently in effect, (ii) the Company’s Amended and Restated Bylaws as currently in effect, (iii) the Registration Statement and related Prospectus, (iv) the form of Pre-Funded Warrant, (v) the form of Series A Warrant, (vi) the form of Series B Warrant, (vii) the form of Placement Agent Warrant, and (viii) such corporate records, agreements, documents and other instruments, and such certificates or comparable documents of public officials or of officers and representatives of the Company, as we have deemed relevant and necessary as a basis for the opinion hereinafter set forth.

In such examination, we have assumed the genuineness of all signatures, the legal capacity of all natural persons, the authenticity of all documents submitted to us as originals, the conformity to original documents of all documents submitted to us as certified, conformed or photostatic copies, and the authenticity of the originals of such latter documents. As to certain questions of fact material to this opinion, we have relied upon certificates or comparable documents of officers and representatives of the Company and have not sought to independently verify such facts.

Based upon the foregoing and subject to the limitations, qualifications and assumptions set forth herein, we are of the opinion that (i) the Shares have been duly authorized for issuance, and when issued and paid for by the purchasers in accordance with the terms of the Prospectus, will be validly issued, fully paid and non-assessable, (ii) when the Pre-Funded Warrants have been duly executed and delivered by the Company and paid for by the purchasers in accordance with the terms of the Prospectus, the Pre-Funded Warrants will constitute the legal, valid and binding obligation of the Company, enforceable against the Company in accordance with their terms, subject to bankruptcy, insolvency or other similar laws affecting creditors’ rights and to general equitable principles, (iii) the Pre-Funded Warrant Shares have been duly authorized and, when issued upon the due exercise of the Pre-Funded Warrants, will be validly issued, fully paid and non-assessable, (iv) when the Investor Warrants have been duly executed and delivered by the Company and paid for by the purchasers in accordance with the terms of the Prospectus, the Investor Warrants will constitute the legal, valid and binding obligation of the Company, enforceable against the Company in accordance with their terms, subject to bankruptcy, insolvency or other similar laws affecting creditors’ rights and to general equitable principles, (v) the Investor Warrant Shares have been duly authorized and, when issued upon the due exercise of the Investor Warrants, will be validly issued, fully paid and non-assessable, (vi) the Placement Agents Warrants have been duly executed and delivered by the Company and paid for in accordance with the terms of the Prospectus, the Placement Agent Warrants will constitute the legal, valid and binding obligation of the Company, enforceable against the Company in accordance with their terms, subject to bankruptcy, insolvency or other similar laws affecting creditors’ rights and to general equitable principles and (vii) the Placement Agent Warrant Shares, have been duly authorized and, when issued upon the due exercise of the Placement Agent Warrants, will be validly issued, fully paid and non-assessable.

Any additional Securities registered in reliance on Rule 462(b) under the Securities Act in connection with the offering are hereby expressly covered by this opinion. As used in this opinion, the term “Registration Statement” shall include any additional registration statement filed pursuant to Rule 462(b) under the Securities Act in connection with the offering and the term “Prospectus” shall include any prospectus deemed to be included in any such additional registration statement.

The opinion expressed herein is limited to the General Corporation Law of the State of Delaware (including reported judicial decisions interpreting the General Corporation Law of the State of Delaware) and the applicable laws of the State of New York and we express no opinion as to the effect on the matters covered by this letter of the laws of any other jurisdiction.

We hereby consent to the filing of this letter as an exhibit to the Registration Statement and to the reference to our firm under the caption “Legal Matters” in the Prospectus which is a part of the Registration Statement. In giving such consents, we do not thereby admit that we are in the category of persons whose consent is required under Section 7 of the Securities Act or the Rules and Regulations of the Commission promulgated thereunder.

Very truly yours,

/s/ Lowenstein Sandler LLP

Lowenstein Sandler LLP

SECURITIES PURCHASE AGREEMENT

This Securities Purchase Agreement (this “Agreement”) is dated as of _____, 2024 between Cingulate Inc., a Delaware corporation (the “Company”), and each purchaser identified on the signature pages hereto (each, including its successors and assigns, a “Purchaser” and collectively the “Purchasers”).

WHEREAS, subject to the terms and conditions set forth in this Agreement and pursuant to an effective registration statement under the Securities Act (as defined below) as to the Shares (as defined below) and the Warrants (as defined below), the Company desires to issue and sell to each Purchaser, and each Purchaser, severally and not jointly, desires to purchase from the Company, securities of the Company as more fully described in this Agreement.

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants contained in this Agreement, and for other good and valuable consideration the receipt and adequacy of which are hereby acknowledged, the Company and each Purchaser agree as follows:

ARTICLE I**DEFINITIONS**

1.1 Definitions. In addition to the terms defined elsewhere in this Agreement, for all purposes of this Agreement, the following terms have the meanings set forth in this Section 1.1:

“Acquiring Person” shall have the meaning ascribed to such term in Section 4.5.

“Action” shall have the meaning ascribed to such term in Section 3.1(j).

“Affiliate” means any Person that, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with a Person as such terms are used in and construed under Rule 405 under the Securities Act.

“Beneficial Ownership Limitation” shall have the meaning ascribed to such term in Section 2.1.

“BHCA” shall have the meaning ascribed to such term in Section 3.1(mm).

“Board of Directors” means the board of directors of the Company.

“Business Day” means any day other than Saturday, Sunday or other day on which commercial banks in The City of New York are authorized or required by law to remain closed; provided, however, for clarification, commercial banks shall not be deemed to be authorized or required by law to remain closed due to “stay at home”, “shelter-in-place”, “non-essential employee” or any other similar orders or restrictions or the closure of any physical branch locations at the direction of any governmental authority so long as the electronic funds transfer systems (including for wire transfers) of commercial banks in The City of New York generally are open for use by customers on such day.

“Closing” means the closing of the purchase and sale of the Securities pursuant to Section 2.1.

“Closing Date” means the Trading Day on which all of the Transaction Documents have been executed and delivered by the applicable parties thereto, and all conditions precedent to (i) the Purchasers’ obligations to pay the Subscription Amount and (ii) the Company’s obligations to deliver the Securities, in each case, have been satisfied or waived, but in no event later than the second (2nd) Trading Day following the date hereof.

“Commission” means the United States Securities and Exchange Commission.

“Common Stock” means the common stock of the Company, par value \$0.0001 per share, and any other class of securities into which such securities may hereafter be reclassified or changed.

“Common Stock Equivalents” means any securities of the Company or the Subsidiaries which would entitle the holder thereof to acquire at any time Common Stock, including, without limitation, any debt, preferred stock, right, option, warrant or other instrument that is at any time convertible into or exercisable or exchangeable for, or otherwise entitles the holder thereof to receive, Common Stock.

“Common Stock Purchase Warrants” means, collectively, the Series A Warrants and the Series B Warrants.

“Common Stock Warrant Shares” means the shares of Common Stock issuable upon exercise of the Common Stock Purchase Warrants.

“Disclosure Schedules” means the Disclosure Schedules of the Company delivered concurrently herewith.

“Disclosure Time” means, (i) if this Agreement is signed on a day that is not a Trading Day or after 9:00 a.m. (New York City time) and before midnight (New York City time) on any Trading Day, 9:01 a.m. (New York City time) on the Trading Day immediately following the date hereof, unless otherwise instructed as to an earlier time by the Placement Agent, and (ii) if this Agreement is signed between midnight (New York City time) and 9:00 a.m. (New York City time) on any Trading Day, no later than 9:01 a.m. (New York City time) on the date hereof, unless otherwise instructed as to an earlier time by the Placement Agent.

“EGS” means Ellenoff Grossman & Schole LLP, with offices located at 1345 Avenue of the Americas, New York, New York 10105-0302.

“Environmental Laws” shall have the meaning ascribed to such term in Section 3.1(m).

“Evaluation Date” shall have the meaning ascribed to such term in Section 3.1(s).

“Exchange Act” means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

“Exempt Issuance” means the issuance of (a) shares of Common Stock or options to employees, officers, directors or consultants of the Company pursuant to any stock or option plan duly adopted for such purpose, by a majority of the non-employee members of the Board of Directors or a majority of the members of a committee of non-employee directors established for such purpose for services rendered to the Company, provided that any shares of Common Stock or options issued to consultants of the Company are issued as “restricted securities” (as defined in Rule 144) and carry no registration rights that require or permit the filing of any registration statement in connection therewith during the prohibition period in Section 4.11(a) herein, (b) securities upon the exercise or exchange of or conversion of any Securities issued hereunder, warrants to the Placement Agent in connection with the transactions pursuant to this Agreement and any securities upon exercise of warrants to the Placement Agent, other securities exercisable or exchangeable for or convertible into shares of Common Stock issued and outstanding on the date of this Agreement, provided that such securities have not been amended since the date of this Agreement to increase the number of such securities or to decrease the exercise price, exchange price or conversion price of such securities (other than in connection with stock splits or combinations) or to extend the term of such securities, (c) securities issued pursuant to acquisitions or strategic transactions approved by a majority of the disinterested directors of the Company, provided that such securities are issued as “restricted securities” (as defined in Rule 144) and carry no registration rights that require or permit the filing of any registration statement in connection therewith during the prohibition period in Section 4.11(a) herein, and provided that any such issuance shall only be to a Person (or to the equityholders of a Person) which is, itself or through its subsidiaries, an operating company or an owner of an asset in a business synergistic with the business of the Company and shall provide to the Company additional benefits in addition to the investment of funds, but shall not include a transaction in which the Company is issuing securities primarily for the purpose of raising capital or to an entity whose primary business is investing in securities and (d) up to \$ _____ of Securities issued to other purchasers pursuant to the Prospectus concurrently with the Closing at the Per Share Purchase Price .

“FCPA” means the Foreign Corrupt Practices Act of 1977, as amended.

“FDA” shall have the meaning ascribed to such term in Section 3.1(hh).

“Federal Reserve” shall have the meaning ascribed to such term in Section 3.1(mm).

“GAAP” shall have the meaning ascribed to such term in Section 3.1(h).

“Hazardous Materials” shall have the meaning ascribed to such term in Section 3.1(m).

“Indebtedness” shall have the meaning ascribed to such term in Section 3.1(aa).

“Intellectual Property Rights” shall have the meaning ascribed to such term in Section 3.1(p).

“IT Systems and Data” shall have the meaning ascribed to such term in Section 3.1(jj).

“Liens” means a lien, charge, pledge, security interest, encumbrance, right of first refusal, preemptive right or other restriction.

“Lock-Up Agreement” means the Lock-Up Agreement, dated as of the date hereof, by and among the Company and the directors and officers of the Company, in the form of Exhibit C attached hereto.

“Market Standstill Date” shall have the meaning assigned to such term in Section 4.11(a).

“Material Adverse Effect” shall have the meaning assigned to such term in Section 3.1(b).

“Material Permits” shall have the meaning ascribed to such term in Section 3.1(n).

“Money Laundering Laws” shall have the meaning ascribed to such term in Section 3.1(n).

“Hazardous Materials” shall have the meaning ascribed to such term in Section 3.1(nn).

“OFAC” shall have the meaning ascribed to such term in Section 3.1(kk).

“Per Share Purchase Price” equals \$ ___, subject to adjustment for reverse and forward stock splits, stock dividends, stock combinations and other similar transactions of the Common Stock that occur after the date of this Agreement; provided that the purchase price per Pre-Funded Warrant shall be the Per Share Purchase Price minus \$0.0001.

“Person” means an individual or corporation, partnership, trust, incorporated or unincorporated association, joint venture, limited liability company, joint stock company, government (or an agency or subdivision thereof) or other entity of any kind.

“Placement Agent” means H.C. Wainwright & Co., LLC.

“Pre-Funded Warrant” means, collectively, the Pre-Funded Common Stock purchase warrants delivered to the Purchasers at the Closing in accordance with Section 2.2(a) hereof, which Pre-Funded Warrants shall be exercisable immediately and shall expire when exercised in full, in the form of Exhibit B attached hereto.

“Pre-Funded Warrant Shares” means the shares of Common Stock issuable upon exercise of the Pre-Funded Warrants.

“Pre-Settlement Period” shall have the meaning ascribed to such term in Section 2.1.

“Pre-Settlement Shares” shall have the meaning ascribed to such term in Section 2.1.

“Preliminary Prospectus” means any preliminary prospectus included in the Registration Statement, as originally filed or as part of any amendment thereto, or filed with the Commission pursuant to Rule 424(a) of the rules and regulations of the Commission under the Securities Act, including all information, documents and exhibits filed with or incorporated by reference into such preliminary prospectus, including all information, documents and exhibits filed with or incorporated by reference into such preliminary prospectus.

“Pricing Prospectus” means (i) the Preliminary Prospectus relating to the Securities that was included in the Registration Statement immediately prior to ____ (New York City time) on the date hereof and (ii) any free writing prospectus (as defined in the Securities Act) identified on Schedule I hereto, taken together.

“Proceeding” means an action, claim, suit, investigation or proceeding (including, without limitation, an informal investigation or partial proceeding, such as a deposition), whether commenced or threatened.

“Prospectus” means the final prospectus filed for the Registration Statement.

“Purchaser Party” shall have the meaning ascribed to such term in Section 4.8.

“Registration Statement” means the effective registration statement on Form S-1 (Commission File No. 333-276502) which registers the sale of the Shares and Warrants to the Purchasers. If the Company has filed an abbreviated registration statement to register additional Shares and Warrants pursuant to Rule 462(b) under the Securities Act (the “462(b) Registration Statement”), then any reference herein to the Registration Statement shall also be deemed to include such 462(b) Registration Statement.

“Regulatory Authorities” shall have the meaning ascribed to such term in Section 3.1(hh).

“Required Approvals” shall have the meaning ascribed to such term in Section 3.1(e).

“Rule 144” means Rule 144 promulgated by the Commission pursuant to the Securities Act, as such Rule may be amended or interpreted from time to time, or any similar rule or regulation hereafter adopted by the Commission having substantially the same purpose and effect as such Rule.

“Rule 424” means Rule 424 promulgated by the Commission pursuant to the Securities Act, as such Rule may be amended or interpreted from time to time, or any similar rule or regulation hereafter adopted by the Commission having substantially the same purpose and effect as such Rule.

“SEC Reports” shall have the meaning ascribed to such term in Section 3.1(h).

“Securities” means the Shares, the Warrants and the Warrant Shares.

“Securities Act” means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

“Series A Warrants” means the Series A Common Stock Purchase Warrants delivered to the Purchasers at the Closing in accordance with Section 2.2(a) hereof, which Warrants shall be exercisable on and after the Stockholder Approval Date and have terms of exercise equal to five (5) years following the Stockholder Approval Date (as defined therein), in the form of Exhibit A-1 attached hereto.

“Series B Warrants” means the Series B Common Stock Purchase Warrants delivered to the Purchasers at the Closing in accordance with Section 2.2(a) hereof, which Series B Warrants shall be exercisable on and after the Stockholder Approval Date and have terms of exercise equal to two (2) years following the Stockholder Approval Date (as defined therein), in the form of Exhibit A-2 attached hereto.

“Shares” means the shares of Common Stock issued or issuable to each Purchaser pursuant to this Agreement.

“Short Sales” means all “short sales” as defined in Rule 200 of Regulation SHO under the Exchange Act (but shall not be deemed to include locating and/or borrowing shares of Common Stock).

“Stockholder Approval” means such approval as may be required by the applicable rules and regulations of the Nasdaq Stock Market (or any successor entity) from the stockholders of the Company with respect to issuance of all of the Common Stock Purchase Warrants and the Common Stock Purchase Warrant Shares upon the exercise thereof.

“Stockholder Approval Date” means the date on which Stockholder Approval is received and deemed effective under Delaware law.

“Subscription Amount” means, as to each Purchaser, the aggregate amount to be paid for Shares and Warrants purchased hereunder as specified below such Purchaser’s name on the signature page of this Agreement and next to the heading “Subscription Amount,” in United States dollars and in immediately available funds (minus, if applicable, a Purchaser’s aggregate exercise price of the Pre-Funded Warrants, which amounts shall be paid as and when such Pre-Funded Warrants are exercised).

“Subsidiary” means any subsidiary of the Company as set forth in the SEC Reports, and shall, where applicable, also include any direct or indirect subsidiary of the Company formed or acquired after the date hereof.

“Trading Day” means a day on which the principal Trading Market is open for trading.

“Trading Market” means any of the following markets or exchanges on which the Common Stock is listed or quoted for trading on the date in question: the NYSE American, the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market, the New York Stock Exchange, the Pink Open Market, OTCQB or the OTCQX (or any successors to any of the foregoing).

“Transaction Documents” means this Agreement, the Common Stock Purchase Warrants, the Pre-Funded Warrants, the Lock Up Agreements, all exhibits and schedules thereto and hereto and any other documents or agreements executed in connection with the transactions contemplated hereunder.

“Transfer Agent” means Computershare Trust Company, N.A, the current transfer agent of the Company and any successor transfer agent of the Company.

“Variable Rate Transaction” shall have the meaning ascribed to such term in Section 4.11(b)

“Warrant Shares” means the Common Stock Warrant Shares and the Pre-Funded Warrant Shares.

“Warrants” means the Common Stock Purchase Warrants and the Pre-Funded Warrants.

ARTICLE II

PURCHASE AND SALE

2.1 Closing. On the Closing Date, upon the terms and subject to the conditions set forth herein, the Company agrees to sell, and the Purchasers, severally and not jointly, agree to purchase, up to an aggregate of \$_____ of Shares, Series A Warrants and Series B Warrants; provided, however, that, to the extent that a Purchaser determines, in its sole discretion, that such Purchaser (together with such Purchaser’s Affiliates, and any Person acting as a group together with such Purchaser or any of such Purchaser’s Affiliates) would beneficially own in excess of the Beneficial Ownership Limitation, or as such Purchaser may otherwise choose, in lieu of purchasing Shares such Purchaser may elect to purchase Pre-Funded Warrants in lieu of Shares in such manner to result in the same aggregate purchase price being paid by such Purchaser to the Company, less \$0.0001 per Pre-Funded Warrant purchased. The “Beneficial Ownership Limitation” shall be 4.99% (or, at the election of the Purchaser at Closing, 9.99%) of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of the Securities on the Closing Date. Each Purchaser’s Subscription Amount as set forth on the signature page hereto executed by such Purchaser shall be made available for “Delivery Versus Payment” settlement with the Company or its designee. The Company shall deliver to each Purchaser its respective Shares and Warrants as determined pursuant to Section 2.2(a), and the Company and each Purchaser shall deliver the other items set forth in Section 2.2 deliverable at the Closing. Upon satisfaction of the covenants and conditions set forth in Sections 2.2 and 2.3, the Closing shall occur at the offices of EGS or such other location as the parties shall mutually agree take place remotely by electronic transfer of the Closing documentation. Notwithstanding anything herein to the contrary, if at any time on or after the time of execution of this Agreement by the Company and an applicable Purchaser, through, and including the time immediately prior to the Closing (the “Pre-Settlement Period”), such Purchaser sells to any Person all, or any portion, of the Shares to be issued hereunder to such Purchaser at the Closing (collectively, the “Pre-Settlement Shares”), such Purchaser shall, automatically hereunder (without any additional required actions by such Purchaser or the Company), be deemed to be unconditionally bound to purchase, such Pre-Settlement Shares at the Closing; provided, that the Company shall not be required to deliver any Pre-Settlement Shares to such Purchaser prior to the Company’s receipt of the purchase price of such Pre-Settlement Shares hereunder; and provided further that the Company hereby acknowledges and agrees that the forgoing shall not constitute a representation or covenant by such Purchaser as to whether or not during the Pre-Settlement Period such Purchaser shall sell any shares of Common Stock to any Person and that any such decision to sell any shares of Common Stock by such Purchaser shall solely be made at the time such Purchaser elects to effect any such sale, if any. Notwithstanding the foregoing, with respect to any Notice(s) of Exercise (as defined in the Pre-Funded Warrants) delivered on or prior to 12:00 p.m. (New York City time) on the Closing Date, which may be delivered at any time after the time of execution of this Agreement, the Company agrees to deliver the Warrant Shares subject to such notice(s) by 4:00 p.m. (New York City time) on the Closing Date and the Closing Date shall be the Warrant Share Delivery Date (as defined in the Pre-Funded Warrants) for purposes hereunder. Each Purchaser acknowledges that, concurrently with the Closing and pursuant to the Prospectus, the Company may sell up to \$_____ of additional Securities to purchasers not party to this Agreement, and will issue to each such purchaser such additional Shares and Common Stock Purchase Warrants or Pre-Funded Warrants and Common Stock Purchase Warrants in the same form and at the same Per Share Purchase Price. Unless otherwise directed by the Placement Agent, settlement of the Shares shall occur via “Delivery Versus Payment” (i.e., on the Closing Date, the Company shall issue the Shares registered in the Purchasers’ names and addresses and released by the Transfer Agent directly to the account(s) at the Placement Agent identified by each Purchaser; upon receipt of such Shares, the Placement Agent shall promptly electronically deliver such Shares to the applicable Purchaser, and payment therefor shall be made by the Placement Agent (or its clearing firm) by wire transfer to the Company).

2.2 Deliveries.

(a) On or prior to the Closing Date (except as indicated below), the Company shall deliver or cause to be delivered to each Purchaser the following:

(i) this Agreement duly executed by the Company;

(ii) a legal opinion of Lowenstein Sandler LLP, substantially in form and substance reasonably satisfactory to the Placement Agent;

(iii) subject to the last sentence of Section 2.1, the Company shall have provided each Purchaser with the Company's wire instructions, on Company letterhead;

(iv) subject to the last sentence of Section 2.1, a copy of the irrevocable instructions to the Transfer Agent instructing the Transfer Agent to deliver on an expedited basis via The Depository Trust Company Deposit or Withdrawal at Custodian system a number of Shares equal to the number of Shares set forth on such Purchaser's signature page hereto;

(v) for each Purchaser of Pre-Funded Warrants pursuant to Section 2.1, a Pre-Funded Warrant registered in the name of such Purchaser to purchase up to a number Pre-Funded Warrant Shares as specified on such Purchaser's signature page hereto, with an exercise price equal to \$0.0001, subject to adjustment therein.

(vi) a Series A Warrant registered in the name of such Purchaser to purchase up to a number of shares of Common Stock equal to 100% of the sum of such Purchaser's Shares and Pre-Funded Warrant Shares, with an exercise price equal to \$____, subject to adjustment therein;

(vii) a Series B Warrant registered in the name of such Purchaser to purchase up to a number of shares of Common Stock equal to 50% of the sum of such Purchaser's Shares and Pre-Funded Warrant Shares, with an exercise price equal to \$____, subject to adjustment therein

(viii) on the date hereof, the duly executed Lock-Up Agreements; and

(ix) the Prospectus (which may be delivered in accordance with Rule 172 under the Securities Act).

(b) On or prior to the Closing Date, each Purchaser shall deliver or cause to be delivered to the Company, the following:

(i) this Agreement duly executed by such Purchaser; and

(ii) such Purchaser's Subscription Amount, which shall be made available for "Delivery Versus Payment" settlement with the Company or its designee.

2.3 Closing Conditions.

(a) The obligations of the Company hereunder in connection with the Closing are subject to the following conditions being met:

(i) the accuracy in all material respects (or, to the extent representations or warranties are qualified by materiality, in all respects) when made and on the Closing Date of the representations and warranties of the Purchasers contained herein (unless as of a specific date therein in which case they shall be accurate in all material respects (or, to the extent representations or warranties are qualified by materiality, in all respects) as of such date);

(ii) all obligations, covenants and agreements of each Purchaser required to be performed at or prior to the Closing Date shall have been performed; and

(iii) the delivery by each Purchaser of the items set forth in Section 2.2(b) of this Agreement.

(b) The respective obligations of the Purchasers hereunder in connection with the Closing are subject to the following conditions being met:

(i) the accuracy in all material respects (or, to the extent representations or warranties are qualified by materiality or Material Adverse Effect, in all respects) when made and on the Closing Date of the representations and warranties of the Company contained herein (unless as of a specific date therein in which case they shall be accurate in all material respects or, to the extent representations or warranties are qualified by materiality or Material Adverse Effect, in all respects) as of such date;

(ii) all obligations, covenants and agreements of the Company required to be performed at or prior to the Closing Date shall have been performed;

(iii) the delivery by the Company of the items set forth in Section 2.2(a) of this Agreement;

(iv) there shall have been no Material Adverse Effect with respect to the Company since the date hereof; and

(v) on the date hereof to the Closing Date, trading in the Common Stock shall not have been suspended by the Commission or the Company's principal Trading Market, and, at any time prior to the Closing Date, trading in securities generally as reported by Bloomberg L.P. shall not have been suspended or limited, or minimum prices shall not have been established on securities whose trades are reported by such service, or on any Trading Market, nor shall a banking moratorium have been declared either by the United States or New York State authorities nor shall there have occurred any material outbreak or escalation of hostilities or other national or international calamity of such magnitude in its effect on, or any material adverse change in, any financial market which, in each case, in the reasonable judgment of such Purchaser, makes it impracticable or inadvisable to purchase the Securities at the Closing.

ARTICLE III

REPRESENTATIONS AND WARRANTIES

3.1 Representations and Warranties of the Company. Except as set forth in the Disclosure Schedules, which Disclosure Schedules shall be deemed a part hereof and shall qualify any representation or otherwise made herein to the extent of the disclosure contained in the corresponding section of the Disclosure Schedules, the Company hereby makes the following representations and warranties to each Purchaser:

(a) Subsidiaries. All of the direct and indirect subsidiaries of the Company are set forth in the SEC Reports. The Company owns, directly or indirectly, all of the capital stock or other equity interests of each Subsidiary which it owns, free and clear of any Liens, and all of the issued and outstanding shares of capital stock of each Subsidiary are validly issued and are fully paid, non-assessable and free of preemptive and similar rights to subscribe for or purchase securities. If the Company has no subsidiaries, all other references to the Subsidiaries or any of them in the Transaction Documents shall be disregarded.

(b) Organization and Qualification. The Company and each of the Subsidiaries is an entity duly incorporated or otherwise organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization, with the requisite power and authority to own and use its properties and assets and to carry on its business as currently conducted. Neither the Company nor any Subsidiary is in violation nor default of any of the provisions of its respective certificate or articles of incorporation, bylaws or other organizational or charter documents. Each of the Company and the Subsidiaries is duly qualified to conduct business and is in good standing as a foreign corporation or other entity in each jurisdiction in which the nature of the business conducted or property owned by it makes such qualification necessary, except where the failure to be so qualified or in good standing, as the case may be, could not have or reasonably be expected to result in: (i) a material adverse effect on the legality, validity or enforceability of any Transaction Document, (ii) a material adverse effect on the results of operations, assets, business, prospects or condition (financial or otherwise) of the Company and the Subsidiaries, taken as a whole, or (iii) a material adverse effect on the Company's ability to perform in any material respect on a timely basis its obligations under any Transaction Document (any of (i), (ii) or (iii), a "Material Adverse Effect") and no Proceeding has been instituted in any such jurisdiction revoking, limiting or curtailing or seeking to revoke, limit or curtail such power and authority or qualification.

(c) Authorization; Enforcement. The Company has the requisite corporate power and authority to enter into and to consummate the transactions contemplated by this Agreement and each of the other Transaction Documents and otherwise to carry out its obligations hereunder and thereunder. The execution and delivery of this Agreement and each of the other Transaction Documents by the Company and the consummation by it of the transactions contemplated hereby and thereby have been duly authorized by all necessary action on the part of the Company and no further action is required by the Company, the Board of Directors or the Company's stockholders in connection herewith or therewith, in each case, other than in connection with the Required Approvals. This Agreement and each other Transaction Document to which it is a party has been (or upon delivery will have been) duly executed by the Company and, when delivered in accordance with the terms hereof and thereof, will constitute the valid and binding obligation of the Company enforceable against the Company in accordance with its terms, except (i) as limited by general equitable principles and applicable bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting enforcement of creditors' rights generally, (ii) as limited by laws relating to the availability of specific performance, injunctive relief or other equitable remedies and (iii) insofar as indemnification and contribution provisions may be limited by applicable law.

(d) No Conflicts. The execution, delivery and performance by the Company of this Agreement and the other Transaction Documents to which it is a party, the issuance and sale of the Securities and the consummation by it of the transactions contemplated hereby and thereby do not and will not (i) conflict with or violate any provision of the Company's or any Subsidiary's certificate or articles of incorporation, bylaws or other organizational or charter documents, or (ii) conflict with, or constitute a default (or an event that with notice or lapse of time or both would become a default) under, result in the creation of any Lien upon any of the properties or assets of the Company or any Subsidiary, or give to others any rights of termination, amendment, anti-dilution or similar adjustments, acceleration or cancellation (with or without notice, lapse of time or both) of, any agreement, credit facility, debt or other instrument (evidencing a Company or Subsidiary debt or otherwise) or other understanding to which the Company or any Subsidiary is a party or by which any property or asset of the Company or any Subsidiary is bound or affected, or (iii) subject to the Required Approvals, conflict with or result in a violation of any law, rule, regulation, order, judgment, injunction, decree or other restriction of any court or governmental authority to which the Company or a Subsidiary is subject (including federal and state securities laws and regulations), or by which any property or asset of the Company or a Subsidiary is bound or affected; except in the case of each of clauses (ii) and (iii), such as could not have or reasonably be expected to result in a Material Adverse Effect.

(e) Filings, Consents and Approvals. The Company is not required to obtain any consent, waiver, authorization or order of, give any notice to, or make any filing or registration with, any court or other federal, state, local or other governmental authority or other Person in connection with the execution, delivery and performance by the Company of the Transaction Documents, other than: (i) the filings required pursuant to Section 4.4 of this Agreement, (ii) the filing with the Commission of the Prospectus, (iii) such filings as are required to be made under applicable state securities laws, (iv) the listing of additional shares notification to the Trading Market for the Securities and (v) Stockholder Approval (collectively, the “Required Approvals”).

(f) Issuance of the Securities; Registration. The Securities are duly authorized and, when issued and paid for in accordance with the applicable Transaction Documents, will be duly and validly issued, fully paid and nonassessable, free and clear of all Liens imposed by the Company. The Warrant Shares, when issued in accordance with the terms of the Warrants, will be validly issued, fully paid and nonassessable, free and clear of all Liens imposed by the Company. The Company has reserved from its duly authorized capital stock the maximum number of shares of Common Stock issuable pursuant to this Agreement and the Warrants. The Company has prepared and filed the Registration Statement in conformity with the requirements of the Securities Act, which became effective on _____, 2024, including the Prospectus, and such amendments and supplements thereto as may have been required to the date of this Agreement. The Registration Statement is effective under the Securities Act and no stop order preventing or suspending the effectiveness of the Registration Statement or suspending or preventing the use of the Prospectus has been issued by the Commission and no proceedings for that purpose have been instituted or, to the knowledge of the Company, are threatened by the Commission. At the time the Registration Statement and any amendments thereto became effective, at the date of this Agreement and at the Closing Date, the Registration Statement and any amendments thereto conformed and will conform in all material respects to the requirements of the Securities Act and did not and will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading; and the Prospectus and any amendments or supplements thereto, at the time the Prospectus or any amendment or supplement thereto was issued and at the Closing Date, conformed and will conform in all material respects to the requirements of the Securities Act and did not and will not contain an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. The Company was at the time of the filing of the Registration Statement eligible to use Form S-1.

(g) Capitalization. The capitalization of the Company as of the date hereof is as set forth on Schedule 3.1(g), which Schedule 3.1(g) shall also include the number of shares of Common Stock owned beneficially, and of record, by Affiliates of the Company as of the date hereof. The Company has not issued any capital stock since its most recently filed periodic report under the Exchange Act, other than pursuant to the exercise of employee stock options under the Company's stock option plans, the issuance of shares of Common Stock to employees pursuant to the Company's employee stock purchase plans and pursuant to the conversion and/or exercise of Common Stock Equivalents outstanding as of the date of the most recently filed periodic report under the Exchange Act. No Person has any right of first refusal, preemptive right, right of participation, or any similar right to participate in the transactions contemplated by the Transaction Documents. Except as a result of the purchase and sale of the Securities and set forth on Schedule 3.1(g), there are no outstanding options, warrants, scrip rights to subscribe to, calls or commitments of any character whatsoever relating to, or securities, rights or obligations convertible into or exercisable or exchangeable for, or giving any Person any right to subscribe for or acquire, any shares of Common Stock or the capital stock of any Subsidiary, or contracts, commitments, understandings or arrangements by which the Company or any Subsidiary is or may become bound to issue additional shares of Common Stock or Common Stock Equivalents or capital stock of any Subsidiary. The issuance and sale of the Securities will not obligate the Company or any Subsidiary to issue shares of Common Stock or other securities to any Person (other than the Purchasers). There are no outstanding securities or instruments of the Company or any Subsidiary with any provision that adjusts the exercise, conversion, exchange or reset price of such security or instrument upon an issuance of securities by the Company or any Subsidiary. There are no outstanding securities or instruments of the Company or any Subsidiary that contain any redemption or similar provisions, and there are no contracts, commitments, understandings or arrangements by which the Company or any Subsidiary is or may become bound to redeem a security of the Company or such Subsidiary. The Company does not have any stock appreciation rights or "phantom stock" plans or agreements or any similar plan or agreement. All of the outstanding shares of capital stock of the Company are duly authorized, validly issued, fully paid and nonassessable, have been issued in compliance with all federal and state securities laws, and none of such outstanding shares was issued in violation of any preemptive rights or similar rights to subscribe for or purchase securities. No further approval or authorization of any stockholder, the Board of Directors or others is required for the issuance and sale of the Securities. There are no stockholders agreements, voting agreements or other similar agreements with respect to the Company's capital stock to which the Company is a party or, to the knowledge of the Company, between or among any of the Company's stockholders.

(h) SEC Reports; Financial Statements. The Company has filed all reports, schedules, forms, statements and other documents required to be filed by the Company under the Securities Act and the Exchange Act, including pursuant to Section 13(a) or 15(d) thereof, for the two years preceding the date hereof (or such shorter period as the Company was required by law or regulation to file such material) (the foregoing materials, including the exhibits thereto and documents incorporated by reference therein, together with the Prospectus, being collectively referred to herein as the "SEC Reports") on a timely basis or has received a valid extension of such time of filing and has filed any such SEC Reports prior to the expiration of any such extension. As of their respective dates, the SEC Reports complied in all material respects with the requirements of the Securities Act and the Exchange Act, as applicable, and none of the SEC Reports, when filed, contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. The Company has never been an issuer subject to Rule 144(i) under the Securities Act. The financial statements of the Company included in the SEC Reports comply in all material respects with applicable accounting requirements and the rules and regulations of the Commission with respect thereto as in effect at the time of filing. Such financial statements have been prepared in accordance with United States generally accepted accounting principles applied on a consistent basis during the periods involved ("GAAP"), except as may be otherwise specified in such financial statements or the notes thereto and except that unaudited financial statements may not contain all footnotes required by GAAP, and fairly present in all material respects the financial position of the Company and its consolidated Subsidiaries as of and for the dates thereof and the results of operations and cash flows for the periods then ended, subject, in the case of unaudited statements, to normal, immaterial, year-end audit adjustments.

(i) Material Changes; Undisclosed Events, Liabilities or Developments. Since the date of the latest audited financial statements included within the SEC Reports, except as set forth on Schedule 3.1(i), (i) there has been no event, occurrence or development that has had or that could reasonably be expected to result in a Material Adverse Effect, (ii) the Company has not incurred any liabilities (contingent or otherwise) other than (A) trade payables and accrued expenses incurred in the ordinary course of business consistent with past practice and (B) liabilities not required to be reflected in the Company's financial statements pursuant to GAAP or disclosed in filings made with the Commission, (iii) the Company has not altered its method of accounting, (iv) the Company has not declared or made any dividend or distribution of cash or other property to its stockholders or purchased, redeemed or made any agreements to purchase or redeem any shares of its capital stock and (v) the Company has not issued any equity securities to any officer, director or Affiliate, except pursuant to existing Company stock option plans. The Company does not have pending before the Commission any request for confidential treatment of information. Except for the issuance of the Securities contemplated by this Agreement or as set forth on Schedule 3.1(i), no event, liability, fact, circumstance, occurrence or development has occurred or exists or is reasonably expected to occur or exist with respect to the Company or its Subsidiaries or their respective businesses, prospects, properties, operations, assets or financial condition that would be required to be disclosed by the Company under applicable securities laws at the time this representation is made or deemed made that has not been publicly disclosed at least 1 Trading Day prior to the date that this representation is made.

(j) Litigation. There is no action, suit, inquiry, notice of violation, proceeding or investigation pending or, to the knowledge of the Company, threatened against or affecting the Company, any Subsidiary or any of their respective properties before or by any court, arbitrator, governmental or administrative agency or regulatory authority (federal, state, county, local or foreign) (collectively, an "Action"). Neither the Company nor any Subsidiary, nor to the knowledge of the Company, any director or officer thereof, is or has been the subject of any Action involving a claim of violation of or liability under federal or state securities laws or a claim of breach of fiduciary duty. There has not been, and to the knowledge of the Company, there is not pending or contemplated, any investigation by the Commission involving the Company or any current or former director or officer of the Company. The Commission has not issued any stop order or other order suspending the effectiveness of any registration statement filed by the Company or any Subsidiary under the Exchange Act or the Securities Act.

(k) Labor Relations. No labor dispute exists or, to the knowledge of the Company, is imminent with respect to any of the employees of the Company, which could reasonably be expected to result in a Material Adverse Effect. None of the Company's or its Subsidiaries' employees is a member of a union that relates to such employee's relationship with the Company or such Subsidiary, and neither the Company nor any of its Subsidiaries is a party to a collective bargaining agreement, and the Company and its Subsidiaries believe that their relationships with their employees are good. To the knowledge of the Company, no executive officer of the Company or any Subsidiary, is, or is now expected to be, in violation of any material term of any employment contract, confidentiality, disclosure or proprietary information agreement or non-competition agreement, or any other contract or agreement or any restrictive covenant in favor of any third party, and the continued employment of each such executive officer does not subject the Company or any of its Subsidiaries to any liability with respect to any of the foregoing matters. The Company and its Subsidiaries are in compliance with all U.S. federal, state, local and foreign laws and regulations relating to employment and employment practices, terms and conditions of employment and wages and hours, except where the failure to be in compliance could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(l) Compliance. Neither the Company nor any Subsidiary: (i) is in default under or in violation of (and no event has occurred that has not been waived that, with notice or lapse of time or both, would result in a default by the Company or any Subsidiary under), nor has the Company or any Subsidiary received notice of a claim that it is in default under or that it is in violation of, any indenture, loan or credit agreement or any other agreement or instrument to which it is a party or by which it or any of its properties is bound (whether or not such default or violation has been waived), (ii) is in violation of any judgment, decree or order of any court, arbitrator or other governmental authority or (iii) is or has been in violation of any statute, rule, ordinance or regulation of any governmental authority, including without limitation all foreign, federal, state and local laws relating to taxes, environmental protection, occupational health and safety, product quality and safety and employment and labor matters, except in each case as could not have or reasonably be expected to result in a Material Adverse Effect.

(m) Environmental Laws. The Company and its Subsidiaries (i) are in compliance with all federal, state, local and foreign laws relating to pollution or protection of human health or the environment (including ambient air, surface water, groundwater, land surface or subsurface strata), including laws relating to emissions, discharges, releases or threatened releases of chemicals, pollutants, contaminants, or toxic or hazardous substances or wastes (collectively, "Hazardous Materials") into the environment, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials, as well as all authorizations, codes, decrees, demands, or demand letters, injunctions, judgments, licenses, notices or notice letters, orders, permits, plans or regulations, issued, entered, promulgated or approved thereunder ("Environmental Laws"); (ii) have received all permits licenses or other approvals required of them under applicable Environmental Laws to conduct their respective businesses; and (iii) are in compliance with all terms and conditions of any such permit, license or approval where in each clause (i), (ii) and (iii), the failure to so comply could be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect.

(n) Regulatory Permits. The Company and the Subsidiaries possess all certificates, authorizations and permits issued by the appropriate federal, state, local or foreign regulatory authorities necessary to conduct their respective businesses as described in the SEC Reports, except where the failure to possess such permits could not reasonably be expected to result in a Material Adverse Effect (“Material Permits”), and neither the Company nor any Subsidiary has received any notice of proceedings relating to the revocation or modification of any Material Permit.

(o) Title to Assets. The Company and the Subsidiaries have good and marketable title in fee simple to all real property owned by them and good and marketable title in all personal property owned by them that is material to the business of the Company and the Subsidiaries, in each case free and clear of all Liens, except for (i) Liens as do not materially affect the value of such property and do not materially interfere with the use made and proposed to be made of such property by the Company and the Subsidiaries and (ii) Liens for the payment of federal, state or other taxes, for which appropriate reserves have been made therefor in accordance with GAAP and, the payment of which is neither delinquent nor subject to penalties. Any real property and facilities held under lease by the Company and the Subsidiaries are held by them under valid, subsisting and enforceable leases with which the Company and the Subsidiaries are in compliance.

(p) Intellectual Property. The Company and the Subsidiaries have, or have rights to use, all patents, patent applications, trademarks, trademark applications, service marks, trade names, trade secrets, inventions, copyrights, licenses and other intellectual property rights and similar rights necessary or required for use in connection with their respective businesses as described in the SEC Reports and which the failure to so have could have a Material Adverse Effect (collectively, the “Intellectual Property Rights”). None of, and neither the Company nor any Subsidiary has received a notice (written or otherwise) that any of, the Intellectual Property Rights has expired, terminated or been abandoned, or is expected to expire or terminate or be abandoned, within two (2) years from the date of this Agreement. Neither the Company nor any Subsidiary has received, since the date of the latest audited financial statements included within the SEC Reports, a written notice of a claim or otherwise has any knowledge that the Intellectual Property Rights violate or infringe upon the rights of any Person, except as could not have or reasonably be expected to not have a Material Adverse Effect. To the knowledge of the Company, all such Intellectual Property Rights are enforceable and there is no existing infringement by another Person of any of the Intellectual Property Rights. The Company and its Subsidiaries have taken reasonable security measures to protect the secrecy, confidentiality and value of all of their intellectual properties, except where failure to do so could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(q) Insurance. The Company and the Subsidiaries are insured by insurers of recognized financial responsibility against such losses and risks and in such amounts as are prudent and customary in the businesses in which the Company and the Subsidiaries are engaged, including, but not limited to, directors and officers insurance coverage. Neither the Company nor any Subsidiary has any reason to believe that it will not be able to renew its existing insurance coverage as and when such coverage expires or to obtain similar coverage from similar insurers as may be necessary to continue its business without a significant increase in cost.

(r) Transactions With Affiliates and Employees. Except as set forth on Schedule 3.1(r), none of the officers or directors of the Company or any Subsidiary and, to the knowledge of the Company, none of the employees of the Company or any Subsidiary is presently a party to any transaction with the Company or any Subsidiary (other than for services as employees, officers and directors), including any contract, agreement or other arrangement providing for the furnishing of services to or by, providing for rental of real or personal property to or from, providing for the borrowing of money from or lending of money to or otherwise requiring payments to or from any officer, director or such employee or, to the knowledge of the Company, any entity in which any officer, director, or any such employee has a substantial interest or is an officer, director, trustee, stockholder, member or partner, in each case in excess of \$120,000 other than for (i) payment of salary or consulting fees for services rendered, (ii) reimbursement for expenses incurred on behalf of the Company and (iii) other employee benefits, including stock option agreements under any stock option plan of the Company.

(s) Sarbanes-Oxley; Internal Accounting Controls. The Company and the Subsidiaries are in compliance with any and all applicable requirements of the Sarbanes-Oxley Act of 2002, as amended, that are effective as of the date hereof, and any and all applicable rules and regulations promulgated by the Commission thereunder that are effective as of the date hereof and as of the Closing Date. The Company and the Subsidiaries maintain a system of internal accounting controls with the goal of providing reasonable assurance that: (i) transactions are executed in accordance with management's general or specific authorizations, (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP and to maintain asset accountability, (iii) access to assets is permitted only in accordance with management's general or specific authorization, and (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences. The Company and the Subsidiaries have established disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the Company and the Subsidiaries and designed such disclosure controls and procedures to ensure that information required to be disclosed by the Company in the reports it files or submits under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the Commission's rules and forms. The Company's certifying officers have evaluated the effectiveness of the disclosure controls and procedures of the Company and the Subsidiaries as of the end of the period covered by the most recently filed periodic report under the Exchange Act (such date, the "Evaluation Date"). The Company presented in its most recently filed periodic report under the Exchange Act the conclusions of the certifying officers about the effectiveness of the disclosure controls and procedures based on their evaluations as of the Evaluation Date. Since the Evaluation Date, there have been no changes in the internal control over financial reporting (as such term is defined in the Exchange Act) of the Company and its Subsidiaries that have materially affected, or is reasonably likely to materially affect, the internal control over financial reporting of the Company and its Subsidiaries.

(t) Certain Fees. Except for fees payable by the Company to the Placement Agent and as set forth on Schedule 3.1(t), no brokerage or finder's fees or commissions are or will be payable by the Company or any Subsidiary to any broker, financial advisor or consultant, finder, placement agent, investment banker, bank or other Person with respect to the transactions contemplated by the Transaction Documents. The Purchasers shall have no obligation with respect to any fees or with respect to any claims made by or on behalf of other Persons for fees of a type contemplated in this Section that may be due in connection with the transactions contemplated by the Transaction Documents.

(u) Investment Company. The Company is not, and is not an Affiliate of, and immediately after receipt of payment for the Securities, will not be or be an Affiliate of, an "investment company" within the meaning of the Investment Company Act of 1940, as amended. The Company shall conduct its business in a manner so that it will not become an "investment company" subject to registration under the Investment Company Act of 1940, as amended.

(v) Registration Rights. No Person has any right to cause the Company or any Subsidiary to effect the registration under the Securities Act of any securities of the Company or any Subsidiary.

(w) Listing and Maintenance Requirements. The Common Stock is registered pursuant to Section 12(b) or 12(g) of the Exchange Act, and the Company has taken no action designed to, or which to its knowledge is likely to have the effect of, terminating the registration of the Common Stock under the Exchange Act nor has the Company received any notification that the Commission is contemplating terminating such registration. Except as set forth in the SEC Reports, the Company has not, in the 12 months preceding the date hereof, received notice from any Trading Market on which the Common Stock is or has been listed or quoted to the effect that the Company is not in compliance with the listing or maintenance requirements of such Trading Market. The Common Stock is currently eligible for electronic transfer through the Depository Trust Company or another established clearing corporation and the Company is current in payment of the fees to the Depository Trust Company (or such other established clearing corporation) in connection with such electronic transfer.

(x) Application of Takeover Protections. The Company and the Board of Directors have taken all necessary action, if any, in order to render inapplicable any control share acquisition, business combination, poison pill (including any distribution under a rights agreement) or other similar anti-takeover provision under the Company's certificate of incorporation (or similar charter documents) or the laws of its state of incorporation that is or could become applicable to the Purchasers as a result of the Purchasers and the Company fulfilling their obligations or exercising their rights under the Transaction Documents, including without limitation as a result of the Company's issuance of the Securities and the Purchasers' ownership of the Securities.

(y) Disclosure. Except with respect to the material terms and conditions of the transactions contemplated by the Transaction Documents, the Company confirms that neither it nor any other Person acting on its behalf has provided any of the Purchasers or their agents or counsel with any information that it believes constitutes or might constitute material, non-public information which is not otherwise disclosed in the Prospectus. The Company understands and confirms that the Purchasers will rely on the foregoing representation in effecting transactions in securities of the Company. All of the disclosure furnished by or on behalf of the Company to the Purchasers regarding the Company and its Subsidiaries, their respective businesses and the transactions contemplated hereby, including the Disclosure Schedules to this Agreement, is true and correct and does not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading. The Company acknowledges and agrees that no Purchaser makes or has made any representations or warranties with respect to the transactions contemplated hereby other than those specifically set forth in Section 3.2 hereof.

(z) No Integrated Offering. Assuming the accuracy of the Purchasers' representations and warranties set forth in Section 3.2, neither the Company, nor any of its Affiliates, nor any Person acting on its or their behalf has, directly or indirectly, made any offers or sales of any security or solicited any offers to buy any security, under circumstances that would cause this offering of the Securities to be integrated with prior offerings by the Company for purposes of any applicable shareholder approval provisions of any Trading Market on which any of the securities of the Company are listed or designated.

(aa) Indebtedness. Schedule 3.1(aa) sets forth as of the date hereof all outstanding secured and unsecured Indebtedness of the Company or any Subsidiary, or for which the Company or any Subsidiary has commitments. For the purposes of this Agreement, "Indebtedness" means (x) any liabilities for borrowed money or amounts owed in excess of \$50,000 (other than trade accounts payable incurred in the ordinary course of business), (y) all guaranties, endorsements and other contingent obligations in respect of indebtedness of others, whether or not the same are or should be reflected in the Company's consolidated balance sheet (or the notes thereto), except guaranties by endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of business; and (z) the present value of any lease payments in excess of \$50,000 due under leases required to be capitalized in accordance with GAAP. Neither the Company nor any Subsidiary is in default with respect to any Indebtedness

(bb) Tax Status. Except for matters that would not, individually or in the aggregate, have or reasonably be expected to result in a Material Adverse Effect, the Company and its Subsidiaries each (i) has made or filed all United States federal, state and local income and all foreign income and franchise tax returns, reports and declarations required by any jurisdiction to which it is subject, (ii) has paid all taxes and other governmental assessments and charges that are material in amount, shown or determined to be due on such returns, reports and declarations and (iii) has set aside on its books provision reasonably adequate for the payment of all material taxes for periods subsequent to the periods to which such returns, reports or declarations apply. There are no unpaid taxes in any material amount claimed to be due by the taxing authority of any jurisdiction, and the officers of the Company or of any Subsidiary know of no basis for any such claim.

(cc) Foreign Corrupt Practices. Neither the Company nor any Subsidiary, nor to the knowledge of the Company or any Subsidiary, any agent or other person acting on behalf of the Company or any Subsidiary, has (i) directly or indirectly, used any funds for unlawful contributions, gifts, entertainment or other unlawful expenses related to foreign or domestic political activity, (ii) made any unlawful payment to foreign or domestic government officials or employees or to any foreign or domestic political parties or campaigns from corporate funds, (iii) failed to disclose fully any contribution made by the Company or any Subsidiary (or made by any person acting on its behalf of which the Company is aware) which is in violation of law, or (iv) violated in any material respect any provision of FCPA.

(dd) Accountants. To the knowledge and belief of the Company, the Company's accounting firm is a registered public accounting firm as required by the Exchange Act.

(ee) Acknowledgment Regarding Purchasers' Purchase of Securities. The Company acknowledges and agrees that each of the Purchasers is acting solely in the capacity of an arm's length purchaser with respect to the Transaction Documents and the transactions contemplated thereby. The Company further acknowledges that no Purchaser is acting as a financial advisor or fiduciary of the Company (or in any similar capacity) with respect to the Transaction Documents and the transactions contemplated thereby and any advice given by any Purchaser or any of their respective representatives or agents in connection with the Transaction Documents and the transactions contemplated thereby is merely incidental to the Purchasers' purchase of the Securities. The Company further represents to each Purchaser that the Company's decision to enter into this Agreement and the other Transaction Documents has been based solely on the independent evaluation of the transactions contemplated hereby by the Company and its representatives.

(ff) Acknowledgment Regarding Purchaser's Trading Activity. Anything in this Agreement or elsewhere herein to the contrary notwithstanding (except for Sections 3.2(f) and 4.14 hereof), it is understood and acknowledged by the Company that: (i) none of the Purchasers has been asked by the Company to agree, nor has any Purchaser agreed, to desist from purchasing or selling, long and/or short, securities of the Company, or "derivative" securities based on securities issued by the Company or to hold the Securities for any specified term; (ii) past or future open market or other transactions by any Purchaser, specifically including, without limitation, Short Sales or "derivative" transactions, before or after the closing of future private placement transactions, may negatively impact the market price of the Company's publicly-traded securities; (iii) any Purchaser, and counter-parties in "derivative" transactions to which any such Purchaser is a party, directly or indirectly, presently may have a "short" position in the Common Stock, and (iv) each Purchaser shall not be deemed to have any affiliation with or control over any arm's length counter-party in any "derivative" transaction. The Company further understands and acknowledges that (y) one or more Purchasers may engage in hedging activities at various times during the period that the Securities are outstanding, including, without limitation, during the periods that the value of the Warrant Shares deliverable with respect to Securities are being determined, and (z) such hedging activities (if any) could reduce the value of the existing stockholders' equity interests in the Company at and after the time that the hedging activities are being conducted. The Company acknowledges that such aforementioned hedging activities do not constitute a breach of any of the Transaction Documents.

(gg) Regulation M Compliance. The Company has not, and to its knowledge no one acting on its behalf has, (i) taken, directly or indirectly, any action designed to cause or to result in the stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of any of the Securities, (ii) sold, bid for, purchased, or, paid any compensation for soliciting purchases of, any of the Securities, or (iii) paid or agreed to pay to any Person any compensation for soliciting another to purchase any other securities of the Company, other than, in the case of clauses (ii) and (iii), compensation paid to the Placement Agent in connection with the placement of the Securities.

(hh) Preclinical and Clinical Studies, Tests and Trials. Except as described in the Registration Statement and the Prospectus, and except as it would not, individually or in the aggregate, have a Material Adverse Effect, (i) any preclinical or clinical studies, tests and trials conducted by or, to the knowledge of the Company, on behalf of or sponsored by the Company or its Subsidiaries or in which the Company or its Subsidiaries have participated, that are described in the Registration Statement and the SEC Reports, or the results of which are referred to in the Registration Statement Registration Statement and the Prospectus, as applicable, were, and if still pending are, being conducted in accordance with their respective protocols, the applicable rules and regulations of the U.S. Food and Drug Administration (the "FDA"), including, without limitation, any foreign, federal, state or local governmental or regulatory authority performing functions similar to those performed by the FDA (collectively, the "Regulatory Authorities"), and current applicable Good Clinical Practices and Good Laboratory Practices; (ii) the descriptions in the Registration Statement and the Prospectus of such preclinical or clinical studies, tests and trials are accurate and fairly present the data derived therefrom; (iii) the Company has no knowledge of any other preclinical or clinical studies, tests or trials not described in the Registration Statement and the Prospectus, the results of which, considered together with the results of the Company's preclinical or clinical studies, tests and trials received to date, call into question the results described or referred to in the Registration Statement and the Prospectus; (iv) the Company and its Subsidiaries have operated at all times and are currently in compliance with all applicable statutes, rules and regulations of the Regulatory Authorities; and (v) neither the Company nor any of its Subsidiaries have received any written notices, correspondence or other communications from the Regulatory Authorities or any other governmental agency requiring or threatening the termination, modification or suspension of any preclinical or clinical studies, tests or trials that are described in the Registration Statement and the Prospectus or the results of which are referred to in the Registration Statement and the Prospectus, other than ordinary course communications with respect to modifications in connection with the design and implementation of such preclinical or clinical studies, tests or trials, and, to the Company's knowledge, there are no reasonable grounds for the same.

(ii) Stock Option Plans. Each stock option granted by the Company under the Company's stock option plan was granted (i) in accordance with the terms of the Company's stock option plan and (ii) with an exercise price at least equal to the fair market value of the Common Stock on the date such stock option would be considered granted under GAAP and applicable law. No stock option granted under the Company's stock option plan has been backdated. The Company has not knowingly granted, and there is no and has been no Company policy or practice to knowingly grant, stock options prior to, or otherwise knowingly coordinate the grant of stock options with, the release or other public announcement of material information regarding the Company or its Subsidiaries or their financial results or prospects.

(jj) Cybersecurity. Except as would not reasonably be expected to result in a Material Adverse Effect, (i)(x) there has been no security breach or other compromise of or relating to any of the Company's or any Subsidiary's information technology and computer systems, networks, hardware, software, data (including the data of its respective customers, employees, suppliers, vendors and any third party data maintained by or on behalf of it), equipment or technology (collectively, "IT Systems and Data") and (y) other than as disclosed in the SEC Reports, the Company and the Subsidiaries have not been notified of, and has no knowledge of any event or condition that would reasonably be expected to result in, any security breach or other compromise to its IT Systems and Data; (ii) the Company and the Subsidiaries are presently in compliance with all applicable laws or statutes and all judgments, orders, rules and regulations of any court or arbitrator or governmental or regulatory authority, internal policies and contractual obligations relating to the privacy and security of IT Systems and Data and to the protection of such IT Systems and Data from unauthorized use, access, misappropriation or modification, except as would not, individually or in the aggregate, have a Material Adverse Effect; (iii) the Company and the Subsidiaries have implemented and maintained commercially reasonable safeguards to maintain and protect its material confidential information and the integrity, continuous operation, redundancy and security of all IT Systems and Data; and (iv) the Company and the Subsidiaries have implemented backup and disaster recovery technology consistent with industry standards and practices.

(kk) Office of Foreign Assets Control. Neither the Company nor any Subsidiary nor, to the Company's knowledge, any director, officer, agent, employee or affiliate of the Company or any Subsidiary is currently subject to any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Treasury Department ("OFAC").

(ll) U.S. Real Property Holding Corporation. The Company is not and has never been a U.S. real property holding corporation within the meaning of Section 897 of the Internal Revenue Code of 1986, as amended, and the Company shall so certify upon Purchaser's request.

(mm) Bank Holding Company Act. Neither the Company nor any of its Subsidiaries or Affiliates is subject to the Bank Holding Company Act of 1956, as amended (the “BHCA”) and to regulation by the Board of Governors of the Federal Reserve System (the “Federal Reserve”). Neither the Company nor any of its Subsidiaries or Affiliates owns or controls, directly or indirectly, five percent (5%) or more of the outstanding shares of any class of voting securities or twenty-five percent (25%) or more of the total equity of a bank or any entity that is subject to the BHCA and to regulation by the Federal Reserve. Neither the Company nor any of its Subsidiaries or Affiliates exercises a controlling influence over the management or policies of a bank or any entity that is subject to the BHCA and to regulation by the Federal Reserve.

(nn) Money Laundering. The operations of the Company and its Subsidiaries are and have been conducted at all times in compliance with applicable financial record-keeping and reporting requirements of the Currency and Foreign Transactions Reporting Act of 1970, as amended, applicable money laundering statutes and applicable rules and regulations thereunder (collectively, the “Money Laundering Laws”), and no Action or Proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any Subsidiary with respect to the Money Laundering Laws is pending or, to the knowledge of the Company or any Subsidiary, threatened.

3.2 Representations and Warranties of the Purchasers. Each Purchaser, for itself and for no other Purchaser, hereby represents and warrants as of the date hereof and as of the Closing Date to the Company as follows (unless as of a specific date therein, in which case they shall be accurate as of such date):

(a) Organization; Authority. Such Purchaser is either an individual or an entity duly incorporated or formed, validly existing and in good standing under the laws of the jurisdiction of its incorporation or formation with full right, corporate, partnership, limited liability company or similar power and authority to enter into and to consummate the transactions contemplated by the Transaction Documents and otherwise to carry out its obligations hereunder and thereunder. The execution and delivery of the Transaction Documents and performance by such Purchaser of the transactions contemplated by the Transaction Documents have been duly authorized by all necessary corporate, partnership, limited liability company or similar action, as applicable, on the part of such Purchaser. Each Transaction Document to which it is a party has been duly executed by such Purchaser, and when delivered by such Purchaser in accordance with the terms hereof, will constitute the valid and legally binding obligation of such Purchaser, enforceable against it in accordance with its terms, except: (i) as limited by general equitable principles and applicable bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting enforcement of creditors’ rights generally, (ii) as limited by laws relating to the availability of specific performance, injunctive relief or other equitable remedies and (iii) insofar as indemnification and contribution provisions may be limited by applicable law.

(b) Understandings or Arrangements. Such Purchaser is acquiring the Securities as principal for its own account and has no direct or indirect arrangement or understandings with any other persons to distribute or regarding the distribution of such Securities (this representation and warranty not limiting such Purchaser's right to sell the Securities pursuant to the Registration Statement and the Prospectus or otherwise in compliance with applicable federal and state securities laws). Such Purchaser is acquiring the Securities hereunder in the ordinary course of its business.

(c) Purchaser Status. At the time such Purchaser was offered the Securities, it was, and as of the date hereof it is, and on each date on which it exercises any Warrants, it will be an "accredited investor" as defined in Rule 501(a)(1), (a)(2), (a)(3), (a)(7), (a)(8), (a)(9), (a)(12), or (a)(13) under the Securities Act.

(d) Experience of Such Purchaser. Such Purchaser, either alone or together with its representatives, has such knowledge, sophistication and experience in business and financial matters so as to be capable of evaluating the merits and risks of the prospective investment in the Securities, and has so evaluated the merits and risks of such investment. Such Purchaser is able to bear the economic risk of an investment in the Securities and, at the present time, is able to afford a complete loss of such investment.

(e) Access to Information. Such Purchaser acknowledges that it has had the opportunity to review the Transaction Documents (including all exhibits and schedules thereto) and the SEC Reports and has been afforded, (i) the opportunity to ask such questions as it has deemed necessary of, and to receive answers from, representatives of the Company concerning the terms and conditions of the offering of the Securities and the merits and risks of investing in the Securities; (ii) access to information about the Company and its financial condition, results of operations, business, properties, management and prospects sufficient to enable it to evaluate its investment; and (iii) the opportunity to obtain such additional information that the Company possesses or can acquire without unreasonable effort or expense that is necessary to make an informed investment decision with respect to the investment. Such Purchaser acknowledges and agrees that neither the Placement Agent nor any Affiliate of the Placement Agent has provided such Purchaser with any information or advice with respect to the Securities nor is such information or advice necessary or desired. Neither the Placement Agent nor any Affiliate has made or makes any representation as to the Company or the quality of the Securities and the Placement Agent and any Affiliate may have acquired non-public information with respect to the Company which such Purchaser agrees need not be provided to it. In connection with the issuance of the Securities to such Purchaser, neither the Placement Agent nor any of its Affiliates has acted as a financial advisor or fiduciary to such Purchaser.

(f) Certain Transactions and Confidentiality. Other than consummating the transactions contemplated hereunder, such Purchaser has not, nor has any Person acting on behalf of or pursuant to any understanding with such Purchaser, directly or indirectly executed any purchases or sales, including Short Sales, of the securities of the Company during the period commencing as of the time that such Purchaser first received a term sheet (written or oral) from the Company or any other Person representing the Company setting forth the material pricing terms of the transactions contemplated hereunder and ending immediately prior to the execution hereof. Notwithstanding the foregoing, in the case of a Purchaser that is a multi-managed investment vehicle whereby separate portfolio managers manage separate portions of such Purchaser's assets and the portfolio managers have no direct knowledge of the investment decisions made by the portfolio managers managing other portions of such Purchaser's assets, the representation set forth above shall only apply with respect to the portion of assets managed by the portfolio manager that made the investment decision to purchase the Securities covered by this Agreement. Other than to other Persons party to this Agreement or to such Purchaser's representatives, including, without limitation, its officers, directors, partners, legal and other advisors, employees, agents and Affiliates, such Purchaser has maintained the confidentiality of all disclosures made to it in connection with this transaction (including the existence and terms of this transaction). Notwithstanding the foregoing, for the avoidance of doubt, nothing contained herein shall constitute a representation or warranty, or preclude any actions, with respect to locating or borrowing shares in order to effect Short Sales or similar transactions in the future. The Company acknowledges and agrees that the representations contained in this Section 3.2 shall not modify, amend or affect such Purchaser's right to rely on the Company's representations and warranties contained in this Agreement or any representations and warranties contained in any other Transaction Document or any other document or instrument executed and/or delivered in connection with this Agreement or the consummation of the transactions contemplated hereby. Notwithstanding the foregoing, for the avoidance of doubt, nothing contained herein shall constitute a representation or warranty, or preclude any actions, with respect to locating or borrowing shares in order to effect Short Sales or similar transactions in the future.

ARTICLE IV

OTHER AGREEMENTS OF THE PARTIES

4.1 Warrant Shares. If all or any portion of a Warrant is exercised at a time when there is an effective registration statement to cover the issuance or resale of the Warrant Shares or if the Warrant is exercised via cashless exercise, the Warrant Shares issued pursuant to any such exercise shall be issued free of all legends. If at any time following the date hereof the Registration Statement (or any subsequent registration statement registering the sale or resale of the Warrant Shares) is not effective or is not otherwise available for the sale or resale of the Warrant Shares, the Company shall immediately notify the holders of the Warrants in writing that such registration statement is not then effective and thereafter shall promptly notify such holders when the registration statement is effective again and available for the sale or resale of the Warrant Shares (it being understood and agreed that the foregoing shall not limit the ability of the Company to issue, or any Purchaser to sell, any of the Warrant Shares in compliance with applicable federal and state securities laws). The Company shall use best efforts to keep a registration statement (including the Registration Statement) registering the issuance or resale of the Warrant Shares effective during the term of the Warrants

4.2 Furnishing of Information. Until the earliest of the time that (i) no Purchaser owns Securities or (ii) the Warrants have expired, the Company covenants to timely file (or obtain extensions in respect thereof and file within the applicable grace period) all reports required to be filed by the Company after the date hereof pursuant to the Exchange Act even if the Company is not then subject to the reporting requirements of the Exchange Act.

4.3 Integration. The Company shall not sell, offer for sale or solicit offers to buy or otherwise negotiate in respect of any security (as defined in Section 2 of the Securities Act) that would be integrated with the offer or sale of the Securities for purposes of the rules and regulations of any Trading Market such that it would require shareholder approval prior to the closing of such other transaction unless shareholder approval is obtained before the closing of such subsequent transaction.

4.4 Securities Laws Disclosure; Publicity. The Company shall (a) by the Disclosure Time, issue a press release disclosing the material terms of the transactions contemplated hereby, and (b) file a Current Report on Form 8-K, including the Transaction Documents as exhibits thereto if such Transaction Documents were not previously filed as exhibits to the Registration Statement, with the Commission within the time required by the Exchange Act. From and after the issuance of such press release, the Company represents to the Purchasers that it shall have publicly disclosed all material, non-public information delivered to any of the Purchasers by the Company or any of its Subsidiaries, or any of their respective officers, directors, employees, Affiliates or agents, including, without limitation, the Placement Agent, in connection with the transactions contemplated by the Transaction Documents. In addition, effective upon the issuance of such press release, the Company acknowledges and agrees that any and all confidentiality or similar obligations under any agreement, whether written or oral, between the Company, any of its Subsidiaries or any of their respective officers, directors, agents, employees, Affiliates or agents, including, without limitation, the Placement Agent, on the one hand, and any of the Purchasers or any of their Affiliates on the other hand, shall terminate and be of no further force or effect. The Company understands and confirms that each Purchaser shall be relying on the foregoing covenant in effecting transactions in securities of the Company. The Company and each Purchaser shall consult with each other in issuing any other press releases with respect to the transactions contemplated hereby, and neither the Company nor any Purchaser shall issue any such press release nor otherwise make any such public statement without the prior consent of the Company, with respect to any press release of any Purchaser, or without the prior consent of each Purchaser, with respect to any press release of the Company, which consent shall not unreasonably be withheld or delayed, except if such disclosure is required by law, in which case the disclosing party shall promptly provide the other party with prior notice of such public statement or communication. Notwithstanding the foregoing, the Company shall not publicly disclose the name of any Purchaser, or include the name of any Purchaser in any filing with the Commission or any regulatory agency or Trading Market, without the prior written consent of such Purchaser, except (a) as required by federal securities law in connection with the filing of final Transaction Documents with the Commission and (b) to the extent such disclosure is required by law or Trading Market regulations, in which case the Company shall provide the Purchasers with prior notice of such disclosure permitted under this clause (b) and reasonably cooperate with such Purchaser regarding such disclosure.

4.5 Stockholder Rights Plan. No claim will be made or enforced by the Company or, with the consent of the Company, any other Person, that any Purchaser is an “Acquiring Person” under any control share acquisition, business combination, poison pill (including any distribution under a rights agreement) or similar anti-takeover plan or arrangement in effect or hereafter adopted by the Company, or that any Purchaser could be deemed to trigger the provisions of any such plan or arrangement, by virtue of receiving Securities under the Transaction Documents or under any other agreement between the Company and the Purchasers.

4.6 Non-Public Information. Except with respect to the material pricing terms and conditions of the transactions contemplated by the Transaction Documents, which shall be disclosed pursuant to Section 4.4, the Company covenants and agrees that neither it, nor any other Person acting on its behalf will provide any Purchaser or its agents or counsel with any information that constitutes, or the Company reasonably believes constitutes, material non-public information, unless prior thereto such Purchaser shall have consented in writing to the receipt of such information and agreed in writing with the Company to keep such information confidential. The Company understands and confirms that each Purchaser shall be relying on the foregoing covenant in effecting transactions in securities of the Company. To the extent that the Company, any of its Subsidiaries, or any of their respective officers, directors, agents, employees or Affiliates delivers any material, non-public information to a Purchaser without such Purchaser's consent, the Company hereby covenants and agrees that such Purchaser shall not have any duty of confidentiality to the Company, any of its Subsidiaries, or any of their respective officers, directors, employees, Affiliates or agents, including, without limitation, the Placement Agent, or a duty to the Company, any of its Subsidiaries or any of their respective officers, directors, employees, Affiliates or agents, including, without limitation, the Placement Agent, not to trade on the basis of, such material, non-public information, provided that the Purchaser shall remain subject to applicable law. To the extent that any notice provided pursuant to any Transaction Document constitutes, or contains, material, non-public information regarding the Company or any Subsidiaries, the Company shall simultaneously with the delivery of such notice file such notice with the Commission pursuant to a Current Report on Form 8-K. The Company understands and confirms that each Purchaser shall be relying on the foregoing covenant in effecting transactions in securities of the Company.

4.7 Use of Proceeds. The Company shall use the net proceeds from the sale of the Securities hereunder as described in the Registration Statement and the Prospectus and shall not use such proceeds: (a) for the satisfaction of any portion of the Company's debt (other than payment of trade payables in the ordinary course of the Company's business and prior practices), (b) for the redemption of any Common Stock or Common Stock Equivalents, (c) for the settlement of any outstanding litigation or (d) in violation of FCPA or OFAC regulations.

4.8 Indemnification of Purchasers. Subject to the provisions of this Section 4.8, the Company will indemnify and hold each Purchaser and its directors, officers, shareholders, members, partners, employees and agents (and any other Persons with a functionally equivalent role of a Person holding such titles notwithstanding a lack of such title or any other title), each Person who controls such Purchaser (within the meaning of Section 15 of the Securities Act and Section 20 of the Exchange Act), and the directors, officers, shareholders, agents, members, partners or employees (and any other Persons with a functionally equivalent role of a Person holding such titles notwithstanding a lack of such title or any other title) of such controlling persons (each, a “Purchaser Party”) harmless from any and all losses, liabilities, obligations, claims, contingencies, damages, costs and expenses, including all judgments, amounts paid in settlements, court costs and reasonable attorneys’ fees and costs of investigation that any such Purchaser Party may suffer or incur as a result of or relating to (a) any breach of any of the representations, warranties, covenants or agreements made by the Company in this Agreement or in the other Transaction Documents or (b) any action instituted against the Purchaser Parties in any capacity (including a Purchaser Party’s status as an investor), or any of them or their respective Affiliates, by the Company or any stockholder of the Company who is not an Affiliate of such Purchaser Party, arising out of or relating to any of the transactions contemplated by the Transaction Documents. For the avoidance of doubt, the indemnification provided herein is intended to, and shall also cover, direct claims brought by the Company against the Purchaser Parties; provided, however, that such indemnification shall not cover any loss, claim, damage or liability to the extent it is finally judicially determined to be attributable to any Purchaser Party’s breach of any of the representations, warranties, covenants or agreements made by such Purchaser Party in any Transaction Document or any conduct by a Purchaser Party which is finally judicially determined to constitute fraud, gross negligence or willful misconduct. If any action shall be brought against any Purchaser Party in respect of which indemnity may be sought pursuant to this Agreement, such Purchaser Party shall promptly notify the Company in writing, and, except with respect to direct claims brought by the Company, the Company shall have the right to assume the defense thereof with counsel of its own choosing reasonably acceptable to the Purchaser Party. Any Purchaser Party shall have the right to employ separate counsel in any such action and participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such Purchaser Party except to the extent that (i) the employment thereof has been specifically authorized by the Company in writing, (ii) the Company has failed after a reasonable period of time to assume such defense and to employ counsel or (iii) in such action there is, in the reasonable opinion of counsel to the applicable Purchaser Party (which may be internal counsel), a material conflict on any material issue between the position of the Company and the position of such Purchaser Party, in which case the Company shall be responsible for the reasonable fees and expenses of no more than one such separate counsel. The Company will not be liable to any Purchaser Party under this Agreement (i) for any settlement by a Purchaser Party effected without the Company’s prior written consent, which shall not be unreasonably withheld or delayed or (ii) to the extent, but only to the extent, that a loss, claim, damage or liability is attributable to any Purchaser Party’s breach of any of the representations, warranties, covenants or agreements made. In addition, if any Purchaser Party takes actions to collect amounts due under any Transaction Documents or to enforce the provisions of any Transaction Documents, then the Company shall pay the reasonable costs incurred by such Purchaser Party for such collection, enforcement or action, including, but not limited to, reasonable attorneys’ fees and disbursements. The indemnification and other payment obligations required by this Section 4.8 shall be made by periodic payments of the amount thereof during the course of the investigation, defense, collection, enforcement or action, as and when bills are reasonably incurred and received; provided, that if any Purchaser Party is finally judicially determined not to be entitled to indemnification or payment under this Section 4.8, such Purchaser Party shall promptly reimburse the Company for any payments that are advanced under this sentence. The indemnity agreements contained herein shall be in addition to any cause of action or similar right of any Purchaser Party against the Company or others and any liabilities the Company may be subject to pursuant to law.

4.9 Reservation of Common Stock. As of the date hereof, the Company has reserved and the Company shall continue to reserve and keep available at all times, free of preemptive rights, a sufficient number of shares of Common Stock for the purpose of enabling the Company to issue the Shares pursuant to this Agreement and Warrant Shares pursuant to any exercise of the Warrants.

4.10 Listing of Common Stock. For as long as any Warrants are outstanding and exercisable, the Company hereby agrees to use reasonable efforts to maintain the listing or quotation of the Common Stock on the Trading Market on which it is currently listed on such Trading Market, and concurrently with the Closing, the Company shall apply to list or quote all of the Shares and Warrant Shares on such Trading Market and promptly secure the listing of all of the Shares and Warrant Shares on such Trading Market. The Company further agrees, if the Company applies to have the Common Stock traded on any other Trading Market, it will then include in such application all of the Shares and Warrant Shares, and will take such other action as is necessary to cause all of the Shares and Warrant Shares to be listed or quoted on such other Trading Market as promptly as possible. The Company will then take all action reasonably necessary to continue the listing and trading of its Common Stock on a Trading Market and will comply in all material respects with the Company's reporting, filing and other obligations under the bylaws or rules of the Trading Market. For so long as the Company maintains a listing or quotation of the Common Stock on a Trading Market, the Company agrees to maintain the eligibility of the Common Stock for electronic transfer through the Depository Trust Company or another established clearing corporation, including, without limitation, by timely payment of fees to the Depository Trust Company or such other established clearing corporation in connection with such electronic transfer. In addition, the Company shall hold an annual or special meeting of stockholders on or prior to the date that is sixty (60) days following the Closing Date for the purpose of obtaining Stockholder Approval, with the recommendation of the Company's Board of Directors that such proposals are approved, and the Company shall solicit proxies from its stockholders in connection therewith in the same manner as all other management proposals in such proxy statement and all management-appointed proxyholders shall vote their proxies in favor of such proposals. If the Company does not obtain Stockholder Approval at the first meeting, the Company shall call a meeting every sixty (60) days thereafter to seek Stockholder Approval until the earlier of the date on which Stockholder Approval is obtained or the Common Stock Purchase Warrants are no longer outstanding.

4.11 Subsequent Equity Sales.

(a) From the date hereof until sixty (60) days after the Closing Date (the "Market Standstill Date"), neither the Company nor any Subsidiary shall (i) issue, enter into any agreement to issue or announce the issuance or proposed issuance of any shares of Common Stock or Common Stock Equivalents or (ii) file any registration statement or amendment or supplement thereto, other than the Prospectus Supplement or filing a registration statement on Form S-8 in connection with any employee benefit plan.

(b) From the date hereof until the one (1) year anniversary of the Closing Date, the Company shall be prohibited from effecting or entering into an agreement to effect any issuance by the Company or any of its Subsidiaries of Common Stock or Common Stock Equivalents (or a combination of units thereof) involving a Variable Rate Transaction. “Variable Rate Transaction” means a transaction in which the Company (i) issues or sells any debt or equity securities that are convertible into, exchangeable or exercisable for, or include the right to receive additional shares of Common Stock either (A) at a conversion price, exercise price or exchange rate or other price that is based upon and/or varies with the trading prices of or quotations for the shares of Common Stock at any time after the initial issuance of such debt or equity securities, or (B) with a conversion, exercise or exchange price that is subject to being reset at some future date after the initial issuance of such debt or equity security or upon the occurrence of specified or contingent events directly or indirectly related to the business of the Company or the market for the Common Stock or (ii) enters into, or effects a transaction under, any agreement, including, but not limited to, an equity line of credit or an “at-the-market offering”, whereby the Company may issue securities at a future determined price regardless of whether shares pursuant to such agreement have actually been issued and regardless of whether such agreement is subsequently canceled; provided, however, that, after the Market Standstill Date, the issuance of shares of Common Stock pursuant to the “at the market” offering with the Placement Agent as sales agent and issuances of shares of Common Stock pursuant to that existing Purchase Agreement, by and between the Company and Lincoln Park Capital Fund, LLC shall not be deemed a Variable Rate Transaction. Any Purchaser shall be entitled to obtain injunctive relief against the Company to preclude any such issuance, which remedy shall be in addition to any right to collect damages.

(c) Notwithstanding the foregoing, this Section 4.11 shall not apply in respect of an Exempt Issuance, except that no Variable Rate Transaction shall be an Exempt Issuance.

4.12 Equal Treatment of Purchasers. No consideration (including any modification of this Agreement) shall be offered or paid to any Person to amend or consent to a waiver or modification of any provision of this Agreement unless the same consideration is also offered to all of the parties to this Agreement. For clarification purposes, this provision constitutes a separate right granted to each Purchaser by the Company and negotiated separately by each Purchaser, and is intended for the Company to treat the Purchasers as a class and shall not in any way be construed as the Purchasers acting in concert or as a group with respect to the purchase, disposition or voting of Securities or otherwise.

4.13 Exercise Procedures. The form of Notice of Exercise included in the Warrants sets forth the totality of the procedures required of the Purchasers in order to exercise such Warrants. No additional legal opinion, other information or instructions shall be required of the Purchasers to exercise such Warrants. Without limiting the preceding sentences, no ink-original Notice of Exercise shall be required, nor shall any medallion guarantee (or other type of guarantee or notarization) of any Notice of Exercise form be required in order to exercise such Warrants. The Company shall honor exercises of such Warrants and shall deliver the Warrant Shares in accordance with the terms, conditions and time periods set forth in the Transaction Documents.

4.14 Certain Transactions and Confidentiality. Each Purchaser, severally and not jointly with the other Purchasers, covenants that neither it nor any Affiliate acting on its behalf or pursuant to any understanding with it will execute any purchases or sales, including Short Sales of any of the Company's securities during the period commencing with the execution of this Agreement and ending at such time that the transactions contemplated by this Agreement are first publicly announced pursuant to the initial press release as described in Section 4.4. Each Purchaser, severally and not jointly with the other Purchasers, covenants that until such time as the transactions contemplated by this Agreement are publicly disclosed by the Company pursuant to the initial press release as described in Section 4.4, such Purchaser will maintain the confidentiality of the existence and terms of this transaction and the information included in the Disclosure Schedules (other than as disclosed to its legal and other representatives). Notwithstanding the foregoing and notwithstanding anything contained in this Agreement to the contrary, the Company expressly acknowledges and agrees that (i) no Purchaser makes any representation, warranty or covenant hereby that it will not engage in effecting transactions in any securities of the Company after the time that the transactions contemplated by this Agreement are first publicly announced pursuant to the initial press release as described in Section 4.4, (ii) no Purchaser shall be restricted or prohibited from effecting any transactions in any securities of the Company in accordance with applicable securities laws from and after the time that the transactions contemplated by this Agreement are first publicly announced pursuant to the initial press release as described in Section 4.4 and (iii) no Purchaser shall have any duty of confidentiality or duty not to trade in the securities of the Company to the Company, any of its Subsidiaries, or any of their respective officers, directors, employees, Affiliates, or agent, including, without limitation, the Placement Agent, after the issuance of the initial press release as described in Section 4.4. Notwithstanding the foregoing, in the case of a Purchaser that is a multi-managed investment vehicle whereby separate portfolio managers manage separate portions of such Purchaser's assets and the portfolio managers have no direct knowledge of the investment decisions made by the portfolio managers managing other portions of such Purchaser's assets, the covenant set forth above shall only apply with respect to the portion of assets managed by the portfolio manager that made the investment decision to purchase the Securities covered by this Agreement.

4.15 Lock-Up Agreements. The Company shall not amend, modify, waive or terminate any provision of any of the Lock-Up Agreements except to extend the term of the lock-up period and shall enforce the provisions of each Lock-Up Agreement in accordance with its terms. If any party to a Lock-Up Agreement breaches any provision of a Lock-Up Agreement, the Company shall promptly use its commercially reasonable efforts to seek specific performance of the terms of such Lock-Up Agreement.

4.16 Capital Changes. Until sixty (60) days after the Closing Date, the Company shall not consummate a reverse or forward stock split or reclassification of the Common Stock without the prior written consent of the Purchasers holding a majority in interest of the Shares.

ARTICLE V

MISCELLANEOUS

5.1 Termination. This Agreement may be terminated by any Purchaser, as to such Purchaser's obligations hereunder only and without any effect whatsoever on the obligations between the Company and the other Purchasers, by written notice to the other parties, if the Closing has not been consummated on or before the fifth (5th) Trading Day following the date hereof; provided, however, that no such termination will affect the right of any party to sue for any breach by any other party (or parties).

5.2 Fees and Expenses. Except as expressly set forth in the Transaction Documents to the contrary, each party shall pay the fees and expenses of its advisers, counsel, accountants and other experts, if any, and all other expenses incurred by such party incident to the negotiation, preparation, execution, delivery and performance of this Agreement. The Company shall pay all Transfer Agent fees (including, without limitation, any fees required for same-day processing of any instruction letter delivered by the Company and any exercise notice delivered by a Purchaser), stamp taxes and other taxes and duties levied in connection with the delivery of any Securities to the Purchasers.

5.3 Entire Agreement. The Transaction Documents, together with the exhibits and schedules thereto, the Prospectus, contain the entire understanding of the parties with respect to the subject matter hereof and thereof and supersede all prior agreements and understandings, oral or written, with respect to such matters, which the parties acknowledge have been merged into such documents, exhibits and schedules.

5.4 Notices. Any and all notices or other communications or deliveries required or permitted to be provided hereunder shall be in writing and shall be deemed given and effective on the earliest of: (a) the time of transmission, if such notice or communication is delivered via email attachment at the email address as set forth on the signature pages attached hereto at or prior to 5:30 p.m. (New York City time) on a Trading Day, (b) the next Trading Day after the time of transmission, if such notice or communication is delivered via email attachment at the email address as set forth on the signature pages attached hereto on a day that is not a Trading Day or later than 5:30 p.m. (New York City time) on any Trading Day, (c) the second (2nd) Trading Day following the date of mailing, if sent by U.S. nationally recognized overnight courier service or (d) upon actual receipt by the party to whom such notice is required to be given. The address for such notices and communications shall be as set forth on the signature pages attached hereto.

5.5 Amendments; Waivers. No provision of this Agreement may be waived, modified, supplemented or amended except in a written instrument signed, in the case of an amendment, by the Company and Purchasers which purchased at least 50.1% in interest of the sum of the Shares and Pre-Funded Warrant Shares based on the initial Subscription Amounts hereunder (or, prior to the Closing, the Company and each Purchaser) or, in the case of a waiver, by the party against whom enforcement of any such waived provision is sought, provided that if any amendment, modification or waiver disproportionately and adversely impacts a Purchaser (or group of Purchasers), the consent of such disproportionately impacted Purchaser (or at least 50.1% in interest (based on the initial Subscription Amounts hereunder in the case of a group of Purchasers) shall also be required. No waiver of any default with respect to any provision, condition or requirement of this Agreement shall be deemed to be a continuing waiver in the future or a waiver of any subsequent default or a waiver of any other provision, condition or requirement hereof, nor shall any delay or omission of any party to exercise any right hereunder in any manner impair the exercise of any such right. Any proposed amendment or waiver that disproportionately, materially and adversely affects the rights and obligations of any Purchaser relative to the comparable rights and obligations of the other Purchasers shall require the prior written consent of such adversely affected Purchaser. Any amendment effected in accordance with this Section 5.5 shall be binding upon each Purchaser and holder of Securities and the Company.

5.6 Headings. The headings herein are for convenience only, do not constitute a part of this Agreement and shall not be deemed to limit or affect any of the provisions hereof.

5.7 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties and their successors and permitted assigns. The Company may not assign this Agreement or any rights or obligations hereunder without the prior written consent of each Purchaser (other than by merger). Any Purchaser may assign any or all of its rights under this Agreement to any Person to whom such Purchaser assigns or transfers any Securities, provided that such transferee agrees in writing to be bound, with respect to the transferred Securities, by the provisions of the Transaction Documents that apply to the "Purchasers."

5.8 No Third-Party Beneficiaries. The Placement Agent shall be the third party beneficiary of the representations, warranties, and covenants of the Company in this Agreement and the representations, warranties, and covenants of the Purchasers in this Agreement. This Agreement is intended for the benefit of the parties hereto and their respective successors and permitted assigns and is not for the benefit of, nor may any provision hereof be enforced by, any other Person, except as otherwise set forth in Section 4.8 and this Section 5.8.

5.9 Governing Law. All questions concerning the construction, validity, enforcement and interpretation of the Transaction Documents shall be governed by and construed and enforced in accordance with the internal laws of the State of New York, without regard to the principles of conflicts of law thereof. Each party agrees that all legal Proceedings concerning the interpretations, enforcement and defense of the transactions contemplated by this Agreement and any other Transaction Documents (whether brought against a party hereto or its respective affiliates, directors, officers, shareholders, partners, members, employees or agents) shall be commenced exclusively in the state and federal courts sitting in the City of New York. Each party hereby irrevocably submits to the exclusive jurisdiction of the state and federal courts sitting in the City of New York, Borough of Manhattan for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein (including with respect to the enforcement of any of the Transaction Documents), and hereby irrevocably waives, and agrees not to assert in any Action or Proceeding, any claim that it is not personally subject to the jurisdiction of any such court, that such Action or Proceeding is improper or is an inconvenient venue for such Proceeding. Each party hereby irrevocably waives personal service of process and consents to process being served in any such Action or Proceeding by mailing a copy thereof via registered or certified mail or overnight delivery (with evidence of delivery) to such party at the address in effect for notices to it under this Agreement and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any other manner permitted by law. If any party shall commence an Action or Proceeding to enforce any provisions of the Transaction Documents, then, in addition to the obligations of the Company under Section 4.8, the prevailing party in such Action or Proceeding shall be reimbursed by the non-prevailing party for its reasonable attorneys' fees and other costs and expenses incurred with the investigation, preparation and prosecution of such Action or Proceeding.

5.10 Survival. The representations and warranties contained herein shall survive the Closing and the delivery of the Securities.

5.11 Execution. This Agreement may be executed in two or more counterparts, all of which when taken together shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to each other party, it being understood that the parties need not sign the same counterpart. In the event that any signature is delivered by e-mail delivery of a ".pdf" format data file, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such ".pdf" signature page were an original thereof.

5.12 Severability. If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction to be invalid, illegal, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions set forth herein shall remain in full force and effect and shall in no way be affected, impaired or invalidated, and the parties hereto shall use their commercially reasonable efforts to find and employ an alternative means to achieve the same or substantially the same result as that contemplated by such term, provision, covenant or restriction. It is hereby stipulated and declared to be the intention of the parties that they would have executed the remaining terms, provisions, covenants and restrictions without including any of such that may be hereafter declared invalid, illegal, void or unenforceable.

5.13 Rescission and Withdrawal Right. Notwithstanding anything to the contrary contained in (and without limiting any similar provisions of) any of the other Transaction Documents, whenever any Purchaser exercises a right, election, demand or option under a Transaction Document and the Company does not timely perform its related obligations within the periods therein provided, then such Purchaser may rescind or withdraw, in its sole discretion from time to time upon written notice to the Company, any relevant notice, demand or election in whole or in part without prejudice to its future actions and rights; provided, however, that in the case of a rescission of an exercise of a Warrant, the applicable Purchaser shall be required to return any shares of Common Stock subject to any such rescinded exercise notice concurrently with the return to such Purchaser of the aggregate exercise price paid to the Company for such shares and the restoration of such Purchaser's right to acquire such shares pursuant to such Purchaser's Warrant (including, issuance of a replacement warrant certificate evidencing such restored right).

5.14 Replacement of Securities. If any certificate or instrument evidencing any Securities is mutilated, lost, stolen or destroyed, the Company shall issue or cause to be issued in exchange and substitution for and upon cancellation thereof (in the case of mutilation), or in lieu of and substitution therefor, a new certificate or instrument, but only upon receipt of evidence reasonably satisfactory to the Company of such loss, theft or destruction. The applicant for a new certificate or instrument under such circumstances shall also pay any reasonable third-party costs (including customary indemnity) associated with the issuance of such replacement Securities.

5.15 Remedies. In addition to being entitled to exercise all rights provided herein or granted by law, including recovery of damages, each of the Purchasers and the Company will be entitled to specific performance under the Transaction Documents. The parties agree that monetary damages may not be adequate compensation for any loss incurred by reason of any breach of obligations contained in the Transaction Documents and hereby agree to waive and not to assert in any Action for specific performance of any such obligation the defense that a remedy at law would be adequate.

5.16 Payment Set Aside. To the extent that the Company makes a payment or payments to any Purchaser pursuant to any Transaction Document or a Purchaser enforces or exercises its rights thereunder, and such payment or payments or the proceeds of such enforcement or exercise or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside, recovered from, disgorged by or are required to be refunded, repaid or otherwise restored to the Company, a trustee, receiver or any other Person under any law (including, without limitation, any bankruptcy law, state or federal law, common law or equitable cause of action), then to the extent of any such restoration the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such enforcement or setoff had not occurred.

5.17 Independent Nature of Purchasers' Obligations and Rights. The obligations of each Purchaser under any Transaction Document are several and not joint with the obligations of any other Purchaser, and no Purchaser shall be responsible in any way for the performance or non-performance of the obligations of any other Purchaser under any Transaction Document. Nothing contained herein or in any other Transaction Document, and no action taken by any Purchaser pursuant hereto or thereto, shall be deemed to constitute the Purchasers as a partnership, an association, a joint venture or any other kind of entity, or create a presumption that the Purchasers are in any way acting in concert or as a group with respect to such obligations or the transactions contemplated by the Transaction Documents. Each Purchaser shall be entitled to independently protect and enforce its rights including, without limitation, the rights arising out of this Agreement or out of the other Transaction Documents, and it shall not be necessary for any other Purchaser to be joined as an additional party in any Proceeding for such purpose. Each Purchaser has been represented by its own separate legal counsel in its review and negotiation of the Transaction Documents. For reasons of administrative convenience only, each Purchaser and its respective counsel have chosen to communicate with the Company through EGS. EGS does not represent any of the Purchasers and only represents the Placement Agent. The Company has elected to provide all Purchasers with the same terms and Transaction Documents for the convenience of the Company and not because it was required or requested to do so by any of the Purchasers. It is expressly understood and agreed that each provision contained in this Agreement and in each other Transaction Document is between the Company and a Purchaser, solely, and not between the Company and the Purchasers collectively and not between and among the Purchasers.

5.18 Liquidated Damages. The Company's obligations to pay any partial liquidated damages or other amounts owing under the Transaction Documents is a continuing obligation of the Company and shall not terminate until all unpaid partial liquidated damages and other amounts have been paid notwithstanding the fact that the instrument or security pursuant to which such partial liquidated damages or other amounts are due and payable shall have been canceled.

5.19 Saturdays, Sundays, Holidays, etc. If the last or appointed day for the taking of any action or the expiration of any right required or granted herein shall not be a Business Day, then such action may be taken or such right may be exercised on the next succeeding Business Day.

5.20 Construction. The parties agree that each of them and/or their respective counsel have reviewed and had an opportunity to revise the Transaction Documents and, therefore, the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of the Transaction Documents or any amendments thereto. In addition, each and every reference to share prices and shares of Common Stock in any Transaction Document shall be subject to adjustment for reverse and forward stock splits, stock dividends, stock combinations and other similar transactions of the Common Stock that occur after the date of this Agreement.

5.21 WAIVER OF JURY TRIAL. IN ANY ACTION, SUIT, OR PROCEEDING IN ANY JURISDICTION BROUGHT BY ANY PARTY AGAINST ANY OTHER PARTY, THE PARTIES EACH KNOWINGLY AND INTENTIONALLY, TO THE GREATEST EXTENT PERMITTED BY APPLICABLE LAW, HEREBY ABSOLUTELY, UNCONDITIONALLY, IRREVOCABLY AND EXPRESSLY WAIVES FOREVER TRIAL BY JURY.

(Signature Pages Follow)

IN WITNESS WHEREOF, the parties hereto have caused this Securities Purchase Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

CINGULATE INC.

By: _____
Name: Shane J. Schaffer
Title: Chief Executive Officer

Address for Notice:

1901 W. 47th Place
Kansas City, KS 66205

E-Mail: sschaffer@cingulate.com

With a copy to (which shall not constitute notice):

Steven M. Skolnick, Esq.
Lowenstein Sandler LLP
1251 Avenue of the Americas
New York, New York 10020

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK
SIGNATURE PAGE FOR PURCHASER FOLLOWS]

[PURCHASER SIGNATURE PAGES TO CING SECURITIES PURCHASE AGREEMENT]

IN WITNESS WHEREOF, the undersigned have caused this Securities Purchase Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

Name of Purchaser: _____

Signature of Authorized Signatory of Purchaser: _____

Name of Authorized Signatory: _____

Title of Authorized Signatory: _____

Email Address of Authorized Signatory: _____

Address for Notice to Purchaser:

Address for Delivery of Warrants to Purchaser (if not same as address for notice):

Subscription Amount: \$ _____

Shares: _____

Pre-Funded Warrant Shares: _____ Beneficial Ownership Blocker ☐ 4.99% or ☐ 9.99%

Series A Warrant Shares: _____ Beneficial Ownership Blocker ☐ 4.99% or ☐ 9.99%

Series B Warrant Shares: _____ Beneficial Ownership Blocker ☐ 4.99% or ☐ 9.99%

EIN Number: _____

☐ Notwithstanding anything contained in this Agreement to the contrary, by checking this box (i) the obligations of the above-signed to purchase the securities set forth in this Agreement to be purchased from the Company by the above-signed, and the obligations of the Company to sell such securities to the above-signed, shall be unconditional and all conditions to Closing shall be disregarded, (ii) the Closing shall occur on the second (2nd) Trading Day following the date of this Agreement and (iii) any condition to Closing contemplated by this Agreement (but prior to being disregarded by clause (i) above) that required delivery by the Company or the above-signed of any agreement, instrument, certificate or the like or purchase price (as applicable) shall no longer be a condition and shall instead be an unconditional obligation of the Company or the above-signed (as applicable) to deliver such agreement, instrument, certificate or the like or purchase price (as applicable) to such other party on the Closing Date.



KPMG LLP
Suite 1100
1000 Walnut Street
Kansas City, MO 64106-2162

Consent of Independent Registered Public Accounting Firm

We consent to the use of our report dated March 10, 2023, except for Note 19, as to which the date is January 12, 2024, with respect to the consolidated financial statements of Cingulate, Inc., included herein, and to the reference to our firm under the heading “Experts” in the prospectus.

/s/ KPMG LLP
Kansas City, Missouri
January 29, 2024

KPMG LLP, a Delaware limited liability partnership and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee.
