As filed with the Securities and Exchange Commission on August 10, 2018

Registration No. 333-

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

FORM S-1

REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

ETON PHARMACEUTICALS, INC.
(Exact name of registrant as specified in its charter)

Delaware	**2834**	**37-1858472**
(State or other jurisdiction of incorporation or organization)	(Primary Standard Industrial Classification Code Number)	(I.R.S. Employer Identification No.)

21925 W. Field Parkway, Suite 235
Deer Park, Illinois 60010
(847) 787-7361
(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

Sean E. Brynjelsen
President and Chief Executive Officer
Eton Pharmaceuticals, Inc.
21925 W. Field Parkway, Suite 235
Deer Park, Illinois 60010
(847) 787-7361
(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 the public: As soon as practicable after this registration statement becomes 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 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 (check one):

Large accelerated filer	☐	Accelerated filer	☐
Non-accelerated filer	☐	Smaller reporting company	☒
(Do not check if a 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. ☒

CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities to be Registered	Proposed Maximum Aggregate Offering Price[(1)]	Amount of Registration Fee
Common Stock, $0.001 par value per share	$ 20,700,000	$ 2,577.15
Underwriter Warrant (2)(3)(4)	$ 100	—
Shares of Common Stock underlying Underwriter Warrant	$ 2,484,000	$ 309.26

(1) Estimated solely for the purpose of computing the amount of the registration fee pursuant to Rule 457(o) under the Securities Act of 1933, as amended. Includes the aggregate offering price of additional shares that the underwriter has the option to purchase to cover over-allotments, if any.
(2) No registration fee required pursuant to Rule 457(g) under the Securities Act of 1933.
(3) Registers a warrant to be granted to the underwriter for an amount equal to 10% of the number of the shares sold to the public.
(4) Pursuant to Rule 416 under the Securities Act of 1933, this registration statement shall be deemed to cover the additional securities (i) to be offered or issued in connection with any provision of any securities purported to be registered hereby to be offered pursuant to terms which provide for a change in the amount of securities being offered or issued to prevent dilution resulting from stock splits, stock dividends, or similar transactions and (ii) of the same class as the securities covered by this registration statement issued or issuable prior to completion of the distribution of the securities covered by this registration statement as a result of a split of, or a stock dividend on, the registered securities.

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 IN THIS 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 PROSPECTUS IS NOT AN OFFER TO SELL THESE SECURITIES AND WE ARE NOT SOLICITING AN OFFER TO BUY THESE SECURITIES IN ANY STATE WHERE THE OFFER OR SALE IS NOT PERMITTED.

SUBJECT TO COMPLETION, DATED AUGUST 10, 2018

Shares of Common Stock

ETON PHARMACEUTICALS, INC.

Eton Pharmaceuticals, Inc. is offering shares of common stock on a firm commitment basis. This is an initial public offering of our common stock and there is presently no public market for our common stock. The initial public offering price is $6.00 per share. We intend to apply for listing of our common stock on the NASDAQ Capital Market under the symbol "ETON."

We are an "emerging growth company" under the federal securities laws and will have the option to use reduced public company reporting requirements. Please see "Risk Factors" beginning on page 6 to read about certain factors you should consider before buying our securities.

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

	Price to Public	Underwriting Discounts and Commissions (1)	Proceeds to Eton Pharmaceuticals, Inc.
Per Share	$ 6.00	$	$
Total Offering	$	$	$

(1) Does not include our obligation to reimburse the underwriter for its expenses in an amount not to exceed $. See "Underwriting" for a description of the compensation payable to the underwriter.

The underwriter may also purchase an additional shares of our common stock amounting to % of the number of shares offered to the public, within 45 days of the date of this prospectus, to cover over-allotments, if any, on the same terms set forth above.

The underwriter expects to deliver the shares on or about , 2018.

National Securities Corporation

The date of this prospectus is , 2018

TABLE OF CONTENTS

Page

Neither we nor the underwriter has authorized anyone to provide any information or make any representations other than those contained in this prospectus or in any free writing prospectus prepared by or on behalf of us or to which we have referred you. Neither we nor the underwriter takes responsibility for, and can provide no assurance as to the reliability of, any other information that others may give you. We are offering to sell, and seeking offers to buy, shares of common stock only in jurisdictions where offers and sales are permitted. The information contained in this prospectus is accurate only as of the date of this prospectus, regardless of the time of delivery of this prospectus or of any sale of the common stock.

Through and including , 2018 (the 25th day after the date of this prospectus), all dealers effecting transactions in these securities, whether or not participating in this offering, may be required to deliver a prospectus. This is in addition to a dealer's obligation to deliver a prospectus when acting as an underwriter and with respect to an unsold allotment or subscription.

For investors outside of the United States: Neither we nor the underwriter has 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. Persons outside the United States are required to inform themselves about, and to observe any restrictions relating to, this offering and the distribution of this prospectus outside of the United States.

PROSPECTUS SUMMARY

Investing in our common stock involves a high degree of risk. You should carefully consider the risks and uncertainties described below, together with all of the other information in this prospectus, including our financial statements and related notes, before investing in our common stock. If any of the following risks materialize, our business, financial condition, operating results and prospects could be materially and adversely affected. In that event, the price of our common stock could decline, and you could lose part or all of your investment.

Our Company

Overview

Eton Pharmaceuticals, Inc. is a specialty pharmaceutical company focused on developing and commercializing innovative pharmaceutical products utilizing the FDA's 505(b)(2) regulatory pathway. Our business model is to develop proprietary innovative products that fulfill an unmet patient need.

The 505(b)(2) pathway is intended for molecules that have been previously approved by the FDA or have already been proven to be safe and effective. A 505(b)(2) product reformulates the known molecule in a new strength or dosage form. 505(b)(2) products have the advantage of potentially significantly lower development costs and shorter development timelines versus traditional new molecular entities.

A 505(b)(2) NDA is an application that contains full reports of investigations of safety and effectiveness, but where at least some of the information required for approval comes from studies not conducted by or for the applicant. This alternate regulatory pathway enables the applicant to rely, in part, on the FDA's findings of safety and efficacy for an existing product, or published literature, in support of its application. A 505(b)(2) product candidate might rely on the clinical studies or literature of a previously FDA-approved drug, or rely on the literature and physician usage of an FDA-unapproved drug. We believe there is a significant opportunity to pursue liquid or other alternative formulations of off-patent drugs using the 505(b)(2) regulatory pathway.

We have established a diversified pipeline of eight product candidates in various stages of development, including:

- *DS-300* is a patent-pending injectable nutrition product candidate. The product's NDA was submitted to the FDA in January 2018. DS-300 has been granted Fast Track Designation by the FDA and is being reviewed by the FDA as a rolling review.

- *EM-100* is an ophthalmic product indicated for the treatment of allergic conjunctivitis. EM-100 is a unique formulation of an already FDA-approved molecule that is widely used for allergic conjunctivitis. Our development partner previously filed an ANDA for EM-100 and in response to a complete response letter, or CRL, from the FDA, we ran a bio-equivalence trial in April 2018. The bioequivalence trial successfully showed non-inferiority to the comparable product and statistically significant superiority to placebo at all time points measured. We expect to respond to the CRL later in 2018.

- ET-103 is an oral liquid product candidate that is a new dosage form of a molecule that is currently approved in oral solid form. We expect to hold a Pre-IND meeting with the FDA in late 2018, at which time we expect the FDA will require us to conduct a bioequivalence trial as the principal means of proving safety and efficacy. If the trial is successful, we would anticipate submitting an NDA to the FDA in 2019.

- *DS-100* is an injectable product candidate for use in pain management. The DS-100 will target a new indication for an already FDA approved injectable product. Our product is the same formula as the currently approved product, which we believe will reduce the clinical requirements needed to bring our product to market. We are currently in discussions with the FDA regarding the clinical requirements for DS-100. We expect either a literature-based filing or a small clinical trial. In either event, we expect to submit to the FDA an NDA for DS-100 in 2019.

- *DS-200* is an injectable parenteral nutrition product candidate. Currently there are no approved versions of DS-200's molecule in injectable form. The market is currently being supplied by an unapproved product. Upon approval of DS-200, and in accordance with FDA guidelines, we would expect the marketed unapproved product to exit the market within 12 months of approval. Based on a Pre-IND meeting with the FDA, we expect DS-200 to be a literature-based filing. We expect to submit to the FDA an NDA for DS-200 in 2019.

- *ET-101* is an innovative oral liquid product for use in seizure control. The active ingredient in ET-101 is FDA-approved in an oral solid dosage form but is not approved in an oral liquid form and is frequently compounded into a liquid by pharmacists. We held a Pre-IND meeting with the FDA and anticipate conducting a bioequivalence trial for ET-101. We anticipate submitting a patent on our unique formulation and expect to submit an NDA to the FDA for ET-101 in 2020.

- *ET-102* is an innovative oral liquid product for use as a muscle relaxant. The active ingredient in ET-102 is FDA-approved in an oral solid dosage form but is not approved in an oral liquid form and is frequently compounded into a liquid by pharmacists. We held a Pre-IND meeting with the FDA and anticipate conducting a bioequivalence trial for ET-102. We expect to submit an NDA to the FDA for ET-102 in 2020.

- *CT-100* is our patent-pending synthetic corticotropin therapeutic candidate that mimics the amino acid chain of H.P. Acthar Gel®. Our patent-pending technology stabilizes a known unstable molecule of the approved drug. Our synthetic corticotropin is a 39-chain amino acid peptide synthetic adrenocorticotrophic hormone, non-gelatin and preservative-free, and provides for synthetic corticotropin. We have held two written response meetings with the FDA regarding CT-100 and we are currently working with a clinical research organization to analyze the cost and protocol for CT-100's clinical program based on the FDA's feedback. If the project is determined to be cost prohibitive for us, we may seek to partner or license the product to a larger or more well-capitalized company.

We intend to focus on product candidates that are liquid in formulation and qualify under the FDA's 505(b)(2) regulatory pathway. Our corporate strategy is to pursue what we perceive to be low-risk 505(b)(2) candidates where existing published literature, historical clinical trials, or physician usage has established safety and/or efficacy of the molecule, thereby reducing the incremental clinical burden required for us to bring the product to patients. We intend to focus on product candidates that we believe will offer innovative and proprietary functional advantages to currently available alternatives.

We intend to pursue product candidates that require a single small phase III trial, a bio-equivalence trial, or literature-based filings. Prior to initiating significant development activities on a product candidate, we typically meet with the FDA to establish a defined clinical and regulatory path to approval. We intend to pursue product opportunities where patient demand is not being met by current FDA-approved pharmaceutical products. This may include products that are being supplied on an unapproved basis, products that are currently being compounded, internationally approved products that are widely used offshore but not approved in the United States, or approved products where we believe we can provide a lower-cost alternative to an existing high-priced branded product. While we may opportunistically pursue 505(b)(2) opportunities across all dosage forms, we are primarily focused on liquid products, including injectables, oral liquids and ophthalmics. According to IQVIA, an independent pharmaceutical data Company, in 2017 the molecules included in our current drug candidates had total sales of greater than $4.4 billion.

2017 Private Placement of Series A Preferred Stock

On June 20, 2017, we completed the private placement of 6,685,082 shares of our Series A preferred stock, at an offering price of $3.00 per share, for the gross proceeds of approximately $20.1 million. Pursuant to the terms of our amended and restated certificate of incorporation, the Series A preferred stock accumulates dividends at the rate of 6% per annum. The shares of Series A preferred stock plus all accrued but unpaid dividends on the Series A preferred stock will automatically convert into shares of our common stock concurrent with the completion of this offering, at the conversion price of 50% of the initial public offering price, provided, however, in no event shall the conversion price be greater than $3.00 nor less than $2.25 per share. Assuming that this offering was completed on March 31, 2018 at a price of $6.00 per share, and based on dividends accrued through such date in the amount of $939,574, the Series A preferred stock would have converted into 6,998,274 shares of our common stock.

Risks Related to Our Business

Our business is subject to numerous risks, which are highlighted in the section "Risk Factors" immediately following this prospectus summary. Some of those risks include:

- our future financial and operating results;
- the report of our independent registered public accounting firm as of and for the period ended December 31, 2017 states that due to our accumulated deficit and negative operating cash flows and potential redemption demands under our redeemable convertible preferred stock there is substantial doubt about our ability to continue as a going concern;
- our intentions, expectations and beliefs regarding anticipated growth, market penetration and trends in our business;
- the timing and success of our plan of commercialization;
- our ability to successfully develop and clinically test our product candidates;
- our ability to file for FDA approval of our product candidates through the 505(b)(2) regulatory pathway;
- our ability to obtain FDA approval for any of our product candidates;
- our ability to comply with all U.S. and foreign regulations concerning the development, manufacture and sale of our product candidates;
- the adequacy of the net proceeds of this offering;
- the effects of market conditions on our stock price and operating results;
- our ability to maintain, protect and enhance our intellectual property;
- the effects of increased competition in our market and our ability to compete effectively;
- our plans to use the proceeds from this offering;
- costs associated with initiating and defending intellectual property infringement and other claims;
- the attraction and retention of qualified employees and key personnel;
- future acquisitions of or investments in complementary companies or technologies; and
- our ability to comply with evolving legal standards and regulations, particularly concerning requirements for being a public company.

Corporate Information

We were incorporated under the laws of the state of Delaware in April 2017. We were initially a wholly-owned subsidiary of Imprimis Pharmaceuticals, Inc., or Imprimis. On June 20, 2017, we completed a Series A preferred stock financing with third-party investors and, as of December 31, 2017, Imprimis owned 3,500,000 shares of our common stock, or approximately 27% of our capital stock on an as-converted to common stock basis. We are no longer a subsidiary of Imprimis. Our principal executive offices are located at 21925 W. Field Parkway, Suite 235, Deer Park, Illinois, 60010, and our telephone number is (847) 787-7361. Our website address is www.etonpharma.com. The information contained in, or accessible through, our website is not incorporated by reference into this prospectus, and you should not consider any information contained in, or that can be accessed through, our website as part of this prospectus or in deciding whether to purchase our common stock.

We own two U.S. federal trademark applications and unregistered trademarks, including our company name. All other trademarks or trade names referred to in this prospectus are the property of their respective owners. Solely for convenience, the trademarks and trade names in this prospectus are referred to without the symbols ® and ™, but such references should not be construed as any indication that their respective owners will not assert, to the fullest extent under applicable law, their rights thereto.

Emerging Growth Company

The Jumpstart Our Business Startups Act, or the JOBS Act, was enacted in April 2012 with the intention of encouraging capital formation in the United States and reducing the regulatory burden on newly public companies that qualify as "emerging growth companies." We are an emerging growth company within the meaning of the JOBS Act. As an emerging growth company, we may take advantage of certain exemptions from various public reporting requirements, including:

- the requirement that our internal control over financial reporting be attested to by our independent registered public accounting firm pursuant to Section 404 of the Sarbanes-Oxley Act of 2002;
- certain requirements related to the disclosure of executive compensation in this prospectus and in our periodic reports and proxy statements;
- the requirement that we hold a nonbinding advisory vote on executive compensation and any golden parachute payments; and
- the ability to delay compliance with new or revised financial accounting standards until private companies are required to comply with the new or revised financial accounting standard.

We may take advantage of the exemptions under the JOBS Act discussed above until we are no longer an emerging growth company. We will remain an emerging growth company until the earliest to occur of (1) the last day of the fiscal year in which we have $1.07 billion or more in annual revenue; (2) the date we qualify as a "large accelerated filer," with at least $700 million of equity securities held by non-affiliates; (3) the date on which we have issued, in any three-year period, more than $1.0 billion in non-convertible debt securities; or (4) the last day of the fiscal year ending after the fifth anniversary of our initial public offering.

We may choose to take advantage of some, but not all, of the available benefits under the JOBS Act. We are choosing to irrevocably "opt out" of the extended transition periods available under the JOBS Act for complying with new or revised accounting standards, but we intend to take advantage of the other exemptions discussed above. Accordingly, the information contained herein and in our subsequent filing with the Securities and Exchange Commission may be different than the information you receive from other public companies in which you hold stock.

For certain risks related to our status as an emerging growth company, see the disclosure elsewhere in this prospectus under "Risk Factors—Risks Related to this Offering and Owning Our Common Stock - We are an 'emerging growth company' under the JOBS Act of 2012 and we cannot be certain if the reduced disclosure requirements applicable to emerging growth companies will make our common stock less attractive to investors."

The Offering

Common stock offered by us	shares
Common stock to be outstanding after this offering	shares
Over-allotment option offered by us	shares
Proposed NASDAQ symbol	"ETON"
Use of proceeds	We estimate that the net proceeds from the sale of the shares of common stock in this offering will be approximately $ million, or approximately $ million if the underwriters exercise their option to purchase additional shares in full, assuming an initial public offering price of $ per share (which is the midpoint of the price range set forth on the cover page of this prospectus), after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us. We intend to use the net proceeds from this offering for clinical trials and product development, FDA filing fees, laboratory expansion, as well as for other general corporate purposes, including general and administrative expenses and working capital. See "Estimated Use of Proceeds".

The number of shares of our common stock to be outstanding after this offering is based on 13,217,254 shares of common stock outstanding as of the date of this prospectus (including preferred stock on an as-converted basis as of March 31, 2018 assuming a conversion price of $3.00 per share of the Series A preferred stock), and excludes:

- 1,100,000 shares of our common stock issuable upon exercise of outstanding options, with a weighted average exercise price of $1.24 per share, granted pursuant to our 2017 Equity Incentive Plan, or the 2017 Plan;
- 100,000 shares of common stock issuable upon the settlement of outstanding restricted stock units pursuant to the 2017 Plan;
- approximately 1,279,834 shares of our common stock issuable upon exercise of outstanding warrants, with a weighted average exercise price of $1.60 per share, which includes an estimated 679,834 shares of our common stock issuable upon exercise of a warrant issued to the underwriter as placement agent compensation in connection with the offering of our Series A preferred stock;
- up to shares issuable pursuant to the underwriter's over-allotment option; and
- 1,081,020 shares of our common stock reserved for future grants under our 2017 Plan.

Except as otherwise indicated, all information in this prospectus assumes:

- the automatic conversion of all outstanding shares of our redeemable convertible preferred stock into an aggregate of 6,998,274 shares of common stock in connection with the closing of this offering (assuming a conversion as of March 31, 2018 at a conversion price of $3.00 per share of the Series A preferred stock);
- no exercise of outstanding warrants or options described above; and
- no exercise of the underwriter's over-allotment option.

Summary Financial Data

The following tables summarize our financial data. You should read this summary financial data together with the section entitled "Management's Discussion and Analysis of Financial Condition and Results of Operations" and our financial statements and related notes that are included elsewhere in this prospectus. The financial information for the period from April 27, 2017 (inception) to December 31, 2017 is derived from the audited financial statements that are included elsewhere in this prospectus. The financial information as of and for the three months ended March 31, 2018 is derived from our unaudited financial statements that are included elsewhere in this prospectus. The unaudited financial statements were prepared on a basis consistent with our audited financial statements and include, in management's opinion, all adjustments, consisting only of normal recurring adjustments that we consider necessary for a fair presentation of the financial information set forth in those statements. Our historical results are not necessarily indicative of the results that may be expected in the future, and our interim results are not necessarily indicative of the results to be expected for the full year or any other period.

(in thousands)	Period from April 27, 2017 (Inception) to December 31, 2017	Three Months Ended March 31, 2018 (unaudited)
Revenues	$ —	$ —
Net loss	$ (7,156)	$ (3,018)
Net loss per share attributable to common shareholders	$ (2.50)	$ (1.05)

	March 31, 2018		
(in thousands)	Actual (unaudited)	Pro Forma [1] (unaudited)	Pro Forma as Adjusted [2] (unaudited)
Balance Sheet Data:			
Cash and cash equivalents	$ 11,215	$	$
Working capital	$ 10,406	$	$
Total assets	$ 11,712	$	$
Total redeemable convertible preferred stock – Series A	$ 19,710	$	$
Total common stock	$ 6	$	$
Additional paid-in capital	$ 2,809	$	$
Total shareholders' (deficit) equity	$ (9,548)	$	$

[1] The pro forma column reflects the automatic conversion of 6,685,082 shares of our Series A preferred stock at the close of this offering into 6,998,274 shares of our common stock and reclassified into common stock and additional paid-in capital and the reclassification of the warrant liability into additional paid-in capital.

[2] The pro forma as adjusted column reflects all adjustments included in the pro forma column and gives effect to the sale by us of _____ shares of common stock offered by this prospectus at the public offering price of $6.00.

RISK FACTORS

Investing in our common stock involves a high degree of risk. You should carefully consider the risks and uncertainties described below, together with all of the other information in this prospectus, including our consolidated financial statements and related notes, before investing in our common stock. If any of the following risks materialize, our business, financial condition, operating results and prospects could be materially and adversely affected. In that event, the price of our common stock could decline, and you could lose part or all of your investment.

Risks Relating to Our Business

We are a specialty pharmaceutical company with a limited operating history, and it is difficult for potential investors to evaluate our business. We are a specialty pharmaceutical company founded in April 2017 and have not commenced revenue-producing operations. To date, our operations have consisted of the preliminary formulation, testing and development of our initial product candidates. Our limited operating history makes it difficult for potential investors to evaluate our initial product candidates or our prospective operations. As an early stage company, we are subject to all the risks inherent in the initial organization, financing, expenditures, complications and delays in a new business. Further, biopharmaceutical 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 clinical-stage biopharmaceutical 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 may be unable to:

- successfully implement or execute our current business plan, or develop a business plan that is sound;
- successfully complete clinical trials and obtain regulatory approval for the marketing of our product candidates;
- successfully contract for the manufacture of our clinical drug products and establish a commercial drug supply;
- secure market exclusivity or adequate intellectual property protection for our product candidates;
- attract and retain an experienced management and advisory team; or
- raise sufficient funds in the capital markets to effectuate our business plan, including clinical development, regulatory approval and commercialization for our product candidates.

Investors should evaluate an investment in us in light of the uncertainties encountered by developing companies in a competitive environment. There can be no assurance that our efforts will be successful or that we will ultimately be able to attain profitability. If we cannot successfully execute any one of the foregoing, our business may not succeed and your investment will be adversely affected.

We have a history of significant operating losses and anticipate continued operating losses for the foreseeable future. From our inception in April 2017 through December 31, 2017 and for the three months ended March 31, 2018, we incurred a net loss of $7.2 million and $3.0 million, respectively, and our operations used $4.7 million and $1.9 million of cash and cash equivalents, respectively. Following completion of this offering, we expect to incur substantial expenses without any corresponding revenues unless and until we are able to obtain regulatory approval and successfully commercialize a product candidate. We expect to incur significant expense to complete our clinical programs for our product candidates in the United States and elsewhere. We may never be able to obtain regulatory approval for the marketing of our product candidates in any indication in the United States or internationally. Even if we are able to commercialize our product candidates, there can be no assurance that we will generate significant revenues or ever achieve profitability.

We expect to have significant research, regulatory and development expenses as we advance our product candidates. As a result, we expect to incur substantial losses for the foreseeable future, and these losses will be increasing. 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 may impair our ability to sustain operations and adversely affect our business and our ability to raise capital. If we are unable to generate positive cash flow within a reasonable period of time, we may be unable to further pursue our business plan or continue operations, in which case you may lose your entire investment.

The report of our independent registered public accounting firm as of and for the period ended December 31, 2017 states that due to our accumulated deficit and negative operating cash flows and potential redemption demands under our redeemable convertible preferred stock there is substantial doubt about our ability to continue as a going concern.

We expect we will need additional financing to execute our business plan and fund operations, which additional financing may not be available on reasonable terms or at all. As of March 31, 2018, we had total assets of $11.7 million and working capital of $10.4 million. We believe that we require a minimum of $10 million of additional capital in order to fund our current business plan over, at least, the 12 months following the date of this prospectus, including the securing of regulatory approval and commencement commercial sales of at least one drug product candidate. We have undertaken this initial public offering of our common shares to acquire the necessary capital. However, we may require additional capital, the receipt of which there can be no assurance. In the event we require additional capital, we will endeavor to seek additional funds through various financing sources, including the sale of our equity and debt securities, licensing fees for our technology and joint ventures with industry partners. In addition, we will consider alternatives to our current business plan that may enable to us to achieve revenue producing operations and meaningful commercial success with a smaller amount of capital. However, there can be no guarantees that such funds will be available on commercially reasonable terms, if at all. If such financing is not available on satisfactory terms, we may be unable to further pursue our business plan and we may be unable to continue operations, in which case you may lose your entire investment.

We will need to grow the size of our organization, and we may experience difficulties in managing this growth. As our development and commercialization plans and strategies develop, we will need to expand the size of our employee and consultant/contractor base. Future growth would impose significant added responsibilities on members of management, including the need to identify, recruit, maintain, motivate and integrate additional employees. In addition, our management may have to divert a disproportionate amount of its attention away from our day-to-day activities and devote a substantial amount of time to managing these growth activities. Our future financial performance and our ability to commercialize our product candidates and any other future product candidates and our ability to compete effectively will depend, in part, on our ability to effectively manage our future growth.

If we are not successful in attracting and retaining highly qualified personnel, we may not be able to successfully implement our business strategy. In addition, the loss of the services of our senior management would adversely impact our business prospects. Our management team has expertise in many different aspects of drug development and commercialization. However, our ability to compete in the highly competitive pharmaceuticals industry depends in large part upon our ability to attract and retain highly qualified managerial, scientific and medical personnel. We will need to hire additional personnel as we further develop our product candidates. Competition for skilled personnel in our market is intense and competition for experienced scientists may limit our ability to hire and retain highly qualified personnel on acceptable terms. Despite our efforts to retain valuable employees, members of our management, scientific and medical teams may terminate their employment with us on short notice. The loss of the services of any of our executive officers or other key employees, or our inability to hire targeted executives, could potentially harm our business, operating results or financial condition. In particular, we believe that the loss of the services of our chief executive officer would have a material adverse effect on our business.

Other pharmaceutical companies with which we compete for qualified personnel have greater financial and other resources, different risk profiles, and a longer history in the industry than we do. They also may provide more diverse opportunities and better chances for career advancement. Some of these characteristics may be more appealing to high-quality candidates than what we have to offer. If we are unable to continue to attract and retain high-quality personnel, the rate and success at which we can develop and commercialize product candidates would be limited.

If product liability lawsuits are brought against us, we may incur substantial liabilities and may be required to limit commercialization of our product candidates. We face a potential risk of product liability as a result of the clinical testing of our product candidates and will face an even greater risk if we commercialize any of our product candidates or any other future product. For example, we may be sued if any product we develop, including any of our product candidates, or any materials that we use in our products allegedly causes injury or is found to be otherwise unsuitable during product 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 and a breach of warranties. In the US, 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. Even successful defense would require significant financial and management resources. Regardless of the merits or eventual outcome, liability claims may result in:

- decreased demand for any of our product candidates or any future products that we may develop;
- injury to our reputation;
- withdrawal of clinical trial participants;
- costs to defend the related litigation;
- a diversion of management's time and our resources;
- substantial monetary awards to trial participants or patients;
- product recalls, withdrawals or labeling, marketing or promotional restrictions;
- the inability to commercialize some or all of our product candidates; and
- a decline in the value of our stock.

As of the date of this prospectus, we carry product liability insurance we consider adequate for our current level of clinical testing and development. However, we will need additional product liability coverage at the time we commence commercial sale of our initial product. Our inability to obtain and retain sufficient product liability insurance at an acceptable cost to protect against potential product liability claims could prevent or inhibit the commercialization of products we develop. Although we will endeavor to obtain and maintain such insurance in coverage amounts we deem adequate, any claim that may be brought against us could result in a court judgment or settlement in an amount that is not covered, in whole or in part, by our insurance or that is in excess of the limits of our insurance coverage. Our insurance policies also have various exclusions, and we may be subject to a product liability claim for which we have no coverage. We may have to pay any amounts awarded by a court or negotiated in a settlement that exceed our coverage limitations or that are not covered by our insurance, and we may not have, or be able to obtain, sufficient capital to pay such amounts.

We may acquire businesses or products, or form strategic alliances, in the future, and we may not realize the benefits of such acquisitions. We may acquire additional businesses or products, form strategic alliances or create joint ventures with third parties that we believe will complement or augment our existing business. If we acquire businesses with promising markets or technologies, we may not be able to realize the benefit of acquiring such businesses if we are unable to successfully integrate them with our existing operations and company culture. We may encounter numerous difficulties in developing, manufacturing and marketing any new products resulting from a strategic alliance or acquisition that delay or prevent us from realizing their expected benefits or enhancing our business. We cannot assure you that, following any such acquisition, we will achieve the expected synergies to justify the transaction.

Our business operations could suffer in the event of information technology systems' failures or security breaches. While we believe that we have implemented adequate security measures within our internal information technology and networking systems, our information technology systems may be subject to security breaches, damages from computer viruses, natural disasters, terrorism, and telecommunication failures. Any system failure or security breach could cause interruptions in our operations in addition to the possibility of losing proprietary information and trade secrets. To the extent that any disruption or security breach results in inappropriate disclosure of our confidential information, our competitive position may be adversely affected and we may incur liability or additional costs to remedy the damages caused by these disruptions or security breaches.

Sales of counterfeit DS-300 or any of our other product candidates, as well as unauthorized sales of DS-300 or any other product candidates, may have adverse effects on our revenues, business, results of operations and damage our brand and reputation. DS-300, as well as any of our other product candidates, may become subject to competition from counterfeit pharmaceutical products, which are pharmaceutical products sold under the same or very similar brand names and/or having a similar appearance to genuine products, but which are sold without proper licenses or approvals. Such products divert sales from genuine products, often are of lower cost, often are of lower quality (having different ingredients or formulations, for example), and have the potential to damage the reputation for quality and effectiveness of the genuine product. Obtaining regulatory approval for our product candidates is a complex and lengthy process. If during the period while the regulatory approval is pending illegal sales of counterfeit products begin, consumers may buy such counterfeit products, which could have an adverse impact on our revenues, business and results of operations. In addition, if illegal sales of counterfeits result in adverse side effects to consumers, we may be associated with any negative publicity resulting from such incidents. Although pharmaceutical regulation, control and enforcement systems throughout the world have been increasingly active in policing counterfeit pharmaceuticals, we may not be able to prevent third parties from manufacturing, selling or purporting to sell counterfeit products competing with our product candidates. Such sales may also be occurring without our knowledge. The existence and any increase in production or sales of counterfeit products or unauthorized sales could negatively impact our revenues, brand reputation, business and results of operations.

We have entered into several arrangements with related parties for the development and marketing of certain product candidates and these arrangements present potential conflicts of interest. Our Chief Executive Officer, Sean Brynjelsen, has a material ownership interest in several companies from which we have licensed or acquired product development and marketing rights. We are required to pay these entities a combination of licensing fees, milestone payments and royalty payments. The transactional agreements also subject us to a loss of our rights to the product candidates in the event we breach any of our representations, warranties or covenants included in the agreements. While we believe the terms of the transactional agreements, including the licensing fees, milestone payments and royalty payments, approximate the terms and payments we could have obtained in an arms' length transaction with an unaffiliated party, these arrangements may present Mr. Brynjelsen with a conflict of interest in the event of dispute between the parties. Although we believe we have mechanisms in place to protect the interests of our stockholders, including a board of directors, a majority of which are independent and have no interest in these related parties, there can be no assurance that a conflict of interest will not arise or that any such conflict will not adversely impact the interests of our stockholders.

Risks Related to Product Development, Regulatory Approval, Manufacturing and Commercialization

We depend entirely on the success of our product candidates, which have not yet demonstrated efficacy for their target or any other indications. If we are unable to generate revenues from our product candidates, our ability to create stockholder value will be limited. Our product candidates are in the early stages of clinical development and as of the date of this prospectus we do not generate revenues from any FDA approved drug products. An NDA was submitted for our DS-300 product candidate in January 2018 and we expect to submit throughout 2018 and 2019 additional Investigational New Drug Applications, or IND, or foreign equivalent to the FDA or international regulatory authorities for other product candidates seeking approval to initiate our clinical trials in humans in the United States or other countries yet to be determined. We plan on submitting our clinical trial protocols and receive approvals from the FDA and international regulatory authorities before we commence any clinical trials. We may not be successful in obtaining acceptance from the FDA or comparable foreign regulatory authorities to start our clinical trials. If we do not obtain such acceptance, the time in which we expect to commence clinical programs for any product candidate will be extended and such extension will increase our expenses and increase our need for additional capital. Moreover, there is no guarantee that our clinical trials will be successful or that we will continue clinical development in support of an approval from the FDA or comparable foreign regulatory authorities for any indication. We note that most product candidates never reach the clinical development stage and even those that do commence clinical development have only a small chance of successfully completing clinical development and gaining regulatory approval. Therefore, our business currently depends entirely on the successful development, regulatory approval and commercialization of our product candidates, which may never occur.

If we are not able to obtain any required regulatory approvals for our product candidates, we will not be able to commercialize our product candidate and our ability to generate revenue will be limited. We must successfully complete clinical trials for our product candidates before we can apply for marketing approval. Even if we complete our clinical trials, it does not assure marketing approval. Our clinical trials may be unsuccessful, which would materially harm our business. Even if our initial clinical trials are successful, we are required to conduct additional clinical trials to establish our product candidates' safety and efficacy, before an NDA or Biologics License Application, or BLA, or their foreign equivalents can be filed with the FDA or comparable foreign regulatory authorities for marketing approval of our product candidates.

Clinical testing is expensive, is difficult to design and implement, can take many years to complete and is uncertain as to outcome. Success in early phases of pre-clinical and clinical trials does not ensure that later clinical trials will be successful, and interim results of a clinical trial do not necessarily predict final results. A failure of one or more of our clinical trials can occur at any stage of testing. We may experience numerous unforeseen events during, or as a result of, the clinical trial process that could delay or prevent our ability to receive regulatory approval or commercialize our product candidates. The research, testing, manufacturing, labeling, packaging, storage, approval, sale, marketing, advertising and promotion, pricing, export, import and distribution of drug products are subject to extensive regulation by the FDA and other regulatory authorities in the United States and other countries, which regulations differ from country to country. We are not permitted to market our product candidates as prescription pharmaceutical products in the United States until we receive approval of an NDA from the FDA, or in any foreign countries until we receive the requisite approval from such countries. In the United States, the FDA generally requires the completion of clinical trials of each drug to establish its safety and efficacy and extensive pharmaceutical development to ensure its quality before an NDA is approved. Regulatory authorities in other jurisdictions impose similar requirements. Of the large number of drugs in development, only a small percentage result in the submission of an NDA to the FDA and even fewer are eventually approved for commercialization. As of the date of this prospectus, one NDA has been submitted to the FDA for our lead product candidate, DS-300, however, there can be no assurance our NDA will be approved by the FDA. If our development efforts for our product candidates, including regulatory approval, are not successful for their planned indications, or if adequate demand for our product candidates is not generated, our business will be materially adversely affected.

Our success depends on the receipt of regulatory approval and the issuance of such regulatory approvals is uncertain and subject to a number of risks, including the following:

- the results of toxicology studies may not support the filing of an IND for our product candidates;
- the FDA or comparable foreign regulatory authorities or Institutional Review Boards, or IRB, may disagree with the design or implementation of our clinical trials;
- we may not be able to provide acceptable evidence of our product candidates' safety and efficacy;
- the results of our clinical trials may not be satisfactory or may not meet the level of statistical or clinical significance required by the FDA, European Medicines Agency, or EMA, or other regulatory agencies for marketing approval;
- the dosing of our product candidates in a particular clinical trial may not be at an optimal level;
- patients in our clinical trials may suffer adverse effects for reasons that may or may not be related to our product candidates;
- the data collected from clinical trials may not be sufficient to support the submission of an NDA, BLA or other submission or to obtain regulatory approval in the United States or elsewhere;
- the FDA or comparable foreign regulatory authorities may fail to approve the manufacturing processes or facilities of third-party manufacturers with which we contract for clinical and commercial supplies; and
- the approval policies or regulations of the FDA or comparable foreign regulatory authorities may significantly change in a manner rendering our clinical data insufficient for approval.

Failure to obtain regulatory approval for our product candidates for the foregoing, or any other reasons, will prevent us from commercializing our product candidates, and our ability to generate revenue will be materially impaired. We cannot guarantee that regulators will agree with our assessment of the results of the clinical trials we intend to conduct in the future or that such trials will be successful. The FDA, EMA and other regulators have substantial discretion in the approval process and may refuse to accept any application or may decide that our data is insufficient for approval and require additional clinical trials, or pre-clinical or other studies. In addition, varying interpretations of the data obtained from pre-clinical and clinical testing could delay, limit or prevent regulatory approval of our product candidates.

We are a clinical stage company and as of the date of this prospectus only one NDA has been submitted for our product candidate and we have not received regulatory approval to market any product candidates in any jurisdiction. We have only limited experience in filing the applications necessary to gain regulatory approvals and expect to rely on consultants and third party contract research organizations, or CROs, with expertise in this area to assist us in this process. Securing regulatory approvals to market a product requires the submission of pre-clinical, clinical, and pharmacokinetic data, information about product manufacturing processes and inspection of facilities and supporting information to the appropriate regulatory authorities for each therapeutic indication to establish a product candidate's safety and efficacy for each indication. Our product candidates may prove to have undesirable or unintended side effects, toxicities or other characteristics that may preclude us from obtaining regulatory approval or prevent or limit commercial use with respect to one or all intended indications.

The process of obtaining regulatory approvals is expensive, often takes many years, if approval is obtained at all, and can vary substantially based upon, among other things, the type, complexity and novelty of the product candidates involved, the jurisdiction in which regulatory approval is sought and the substantial discretion of the regulatory authorities. Changes in regulatory approval policies during the development period, changes in or the enactment of additional statutes or regulations, or changes in regulatory review for a submitted product application may cause delays in the approval or rejection of an application. Regulatory approval obtained in one jurisdiction does not necessarily mean that a product candidate will receive regulatory approval in all jurisdictions in which we may seek approval, but the failure to obtain approval in one jurisdiction may negatively impact our ability to seek approval in a different jurisdiction. Failure to obtain regulatory marketing approval for our product candidates will prevent us from commercializing the product candidate, and our ability to generate revenue will be materially impaired.

If the FDA does not conclude that our product candidates satisfy the requirements for the 505(b)(2) regulatory approval pathway, or if the requirements for approval of any of our product candidates under Section 505(b)(2) are not as we expect, the approval pathway for our product candidates will likely take significantly longer, cost significantly more and encounter significantly greater complications and risks than anticipated, and in any case may not be successful. We intend to seek FDA approval through the 505(b)(2) regulatory pathway for each of our product candidates described in this prospectus. The Drug Price Competition and Patent Term Restoration Act of 1984, also known as the Hatch-Waxman Act, added Section 505(b)(2) to the Federal Food, Drug and Cosmetic Act, or FDCA. Section 505(b)(2) permits the filing of an NDA where at least some of the information required for approval comes from studies that were not conducted by or for the applicant. If the FDA does not allow us to pursue the 505(b)(2) regulatory pathway for our product candidates as anticipated, we may need to conduct additional clinical trials, provide additional data and information and meet additional standards for regulatory approval. If this were to occur, the time and financial resources required to obtain FDA approval for our product candidates would likely substantially increase. Moreover, the inability to pursue the 505(b)(2) regulatory pathway could result in new competitive products reaching the market faster than our product candidates, which could materially adversely impact our competitive position and prospects. Even if we are allowed to pursue the 505(b)(2) regulatory pathway for a product candidate, we cannot assure you that we will receive the requisite or timely approvals for commercialization of such product candidate. For example, we had under development a patented injectable pentoxifylline therapeutic candidate, which we believed would satisfy the requirements of the 505(b)(2) regulatory pathway. However, based on a pre-IND meeting with the FDA in March 2018 to discuss the clinical and regulatory pathway for the product, we have decided to suspend all further development activities for this candidate indefinitely due to extraordinarily high costs of the clinical trials that would be required by the FDA.

Notwithstanding the approval of many products by the FDA pursuant to Section 505(b)(2), over the last few years some pharmaceutical companies and others have objected to the FDA's interpretation of Section 505(b)(2) 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 is successfully challenged in court, this could delay or even prevent the FDA from approving any Section 505(b)(2) application that we submit. In addition, we expect that our competitors will file citizens' petitions with the FDA in an attempt to persuade the FDA that our product candidate, or the clinical studies that support their approval, contain deficiencies. Such actions by our competitors could delay or even prevent the FDA from approving any NDA that we submit under Section 505(b)(2).

Moreover, the FDA recently adopted an interpretation of the three-year exclusivity provisions whereby a 505(b)(2) application can be blocked by exclusivity even if does not rely on the previously-approved drug that has exclusivity (or any safety or effectiveness information regarding that drug). Under the FDA's new interpretation, approval may be blocked by exclusivity awarded to a previously-approved drug product that shares certain innovative features with our product, 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.

An NDA submitted under Section 505(b)(2) subjects us to the risk that we may be subject to a patent infringement lawsuit that would delay or prevent the review or approval of our product candidate. The 505(b)(2) application would enable us to reference published literature or the FDA's previous findings of safety and effectiveness for the branded reference drug. For NDAs submitted under Section 505(b)(2) of the FDCA, the patent certification and related provisions of the Hatch-Waxman Act apply. In accordance with Hatch-Waxman Act, in seeking approval for a drug through such an NDA, applicants are required to list with the FDA each patent whose claims cover the applicant's product. Upon approval of a drug, each of the patents listed in the application for the drug is then published in the FDA's Approved Drug Products with Therapeutic Equivalence Evaluations, commonly known as the Orange Book. Drugs listed in the Orange Book can, in turn, be cited by potential generic competitors in support of approval of an abbreviated new drug application, or ANDA. An ANDA provides for marketing of a drug product that has the same active ingredients in the same strengths and dosage form as the listed drug and has been shown to be bioequivalent to the listed drug. Other than the requirement for bioequivalence testing, ANDA applicants are not required to conduct, or submit results of, pre-clinical or clinical tests to prove the safety or effectiveness of their drug product. Drugs approved in this way are commonly referred to as "generic equivalents" to the listed drug, and can often be substituted by pharmacists under prescriptions written for the original listed drug.

The ANDA applicant is required to certify to the FDA concerning any patents listed for the approved product in the FDA's Orange Book. Specifically, the applicant must certify that either: (i) the required patent information has not been filed; (ii) the listed patent has expired; (iii) the listed patent has not expired, but will expire on a particular date and approval is sought after patent expiration; or (iv) the listed patent is invalid or will not be infringed by the new product. The ANDA applicant may also elect to submit a section viii statement certifying that its proposed ANDA label does not contain (or carves out) any language regarding the patented method-of-use rather than certify to a listed method-of-use patent. If the applicant does not challenge the listed patents, the ANDA application will not be approved until all the listed patents claiming the referenced product have expired.

A certification that the new product will not infringe the already approved product's listed patents, or that such patents are invalid or unenforceable, is called a Paragraph IV certification. If the ANDA 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 once the ANDA has been accepted for filing by the FDA. The NDA and patent holders may then initiate a patent infringement lawsuit in response to the notice of the Paragraph IV certification. Under the Hatch-Waxman Act, the holder of patents that the 505 (b)(2) application references may file a patent infringement lawsuit after receiving notice of the Paragraph IV certification. Filing of a patent infringement lawsuit against the filer of the 505(b)(2) applicant within 45 days of the patent owner's receipt of notice triggers a one-time, automatic, 30-month stay of the FDA's ability to approve the 505(b)(2) NDA, unless patent litigation is resolved in the favor of the Paragraph IV filer or the patent expires before that time. Accordingly, we may invest a significant amount of time and expense in the development of one or more product candidates only to be subject to significant delay and patent litigation before such product candidates may be commercialized, if at all.

In addition, a 505(b)(2) application will not be approved until any non-patent exclusivity, such as exclusivity for obtaining approval of a new chemical entity, or NCE, listed in the Orange Book for the referenced product has expired. The FDA may also require us to perform one or more additional clinical studies or measurements to support the change from the branded reference drug, which could be time consuming and could substantially delay our achievement of regulatory approvals for such product candidates. The FDA may also reject our future 505(b)(2) submissions and require us to file such submissions under Section 505(b)(1) of the FDCA, which would require us to provide extensive data to establish safety and effectiveness of the drug for the proposed use and could cause delay and be considerably more expensive and time consuming. These factors, among others, may limit our ability to successfully commercialize our product candidates.

Companies that produce branded reference drugs routinely bring litigation against ANDA or 505(b)(2) applicants that seek regulatory approval to manufacture and market generic and reformulated forms of their branded products. These companies often allege patent infringement or other violations of intellectual property rights as the basis for filing suit against an ANDA or 505(b) (2) applicant. Likewise, patent holders may bring patent infringement suits against companies that are currently marketing and selling their approved generic or reformulated products. Litigation to enforce or defend intellectual property rights is often complex and often involves significant expense and can delay or prevent introduction or sale of our product candidates. If patents are held to be valid and infringed by our product candidates in a particular jurisdiction, we would, unless we could obtain a license from the patent holder, be required to cease selling in that jurisdiction and may need to relinquish or destroy existing stock in that jurisdiction. There may also be situations where we use our business judgment and decide to market and sell our approved products, notwithstanding the fact that allegations of patent infringement(s) have not been finally resolved by the courts, which is known as an "at-risk launch." The risk involved in doing so can be substantial because the remedies available to the owner of a patent for infringement may include, among other things, damages measured by the profits lost by the patent owner and not necessarily by the profits earned by the infringer. In the case of a willful infringement, the definition of which is subjective, such damages may be increased up to three times. Moreover, because of the discount pricing typically involved with bioequivalent and, to a lesser extent, 505(b)(2) products, patented branded products generally realize a substantially higher profit margin than bioequivalent and, to a lesser extent, 505(b)(2) products, resulting in disproportionate damages compared to any profits earned by the infringer. An adverse decision in patent litigation could have a material adverse effect on our business, financial position and results of operations and could cause the market value of our common stock to decline.

Even if we receive regulatory approval for any of our product candidates, we may not be able to successfully commercialize the product and the revenue that we generate from its sales, if any, may be limited. If approved for marketing, the commercial success of our product candidates will depend upon each product's acceptance by the medical community, including physicians, patients and health care payors. The degree of market acceptance for any of our product candidates will depend on a number of factors, including:

- demonstration of clinical safety and efficacy;
- relative convenience, dosing burden and ease of administration;
- the prevalence and severity of any adverse effects;
- the willingness of physicians to prescribe our product candidates, and the target patient population to try new therapies;
- efficacy of our product candidates compared to competing products;
- the introduction of any new products that may in the future become available targeting indications for which our product candidates may be approved;

- new procedures or therapies that may reduce the incidences of any of the indications in which our product candidates may show utility;
- pricing and cost-effectiveness;
- the inclusion or omission of our product candidates in applicable therapeutic and vaccine guidelines;
- the effectiveness of our own or any future collaborators' sales and marketing strategies;
- limitations or warnings contained in approved labeling from regulatory authorities;
- our ability to obtain and maintain sufficient third-party coverage or reimbursement from government health care programs, including Medicare and Medicaid, private health insurers and other third-party payors or to receive the necessary pricing approvals from government bodies regulating the pricing and usage of therapeutics; and
- the willingness of patients to pay out-of-pocket in the absence of third-party coverage or reimbursement or government pricing approvals.

If any of our product candidates are approved, but do not achieve an adequate level of acceptance by physicians, health care payors, and patients, we may not generate sufficient revenue and we may not be able to achieve or sustain profitability. Our efforts to educate the medical community and third-party payors on the benefits of our product candidates may require significant resources and may never be successful.

In addition, even if we obtain regulatory approvals, the timing or scope of any approvals may prohibit or reduce our ability to commercialize our product candidates successfully. For example, if the approval process takes too long, we may miss market opportunities and give other companies the ability to develop competing products or establish market dominance. Any regulatory approval we ultimately obtain may be limited or subject to restrictions or post-approval commitments that render our product candidates not commercially viable. For example, regulatory authorities may approve any of our product candidates for fewer or more limited indications than we request, may not approve the price we intend to charge for any of our product candidates, may grant approval contingent on the performance of costly post-marketing clinical trials, or may approve any of our product candidates with a label that does not include the labeling claims necessary or desirable for the successful commercialization of that indication. Further, the FDA or comparable foreign regulatory authorities may place conditions on approvals or require risk management plans or a Risk Evaluation and Mitigation Strategy, or REMS, to assure the safe use of the drug. If the FDA concludes a REMS is needed, the FDA will not approve the NDA without an approved REMS, if required. A REMS could include medication guides, physician communication plans, or elements to assure safe use, such as restricted distribution methods, patient registries and other risk minimization tools. The FDA may also require a REMS for an approved product when new safety information emerges. Any of these limitations on approval or marketing could restrict the commercial promotion, distribution, prescription or dispensing of our product candidates. Moreover, product approvals may be withdrawn for non-compliance with regulatory standards or if problems occur following the initial marketing of the product. Any of the foregoing scenarios could materially harm the commercial success of our product candidates.

Even if we obtain marketing approval for any of our product candidates, we will be subject to ongoing obligations and continued regulatory review, which may result in significant additional expense. Additionally, our product candidates could be subject to labeling and other restrictions and withdrawal from the market and we may be subject to penalties if we fail to comply with regulatory requirements or if we experience unanticipated problems with our product candidates. Even if we obtain regulatory approval for any of our product candidates for an indication, the FDA or foreign equivalent may still impose significant restrictions on their indicated uses or marketing or the conditions of approval, or impose ongoing requirements for potentially costly and time-consuming post-approval studies, including Phase 4 clinical trials, and post-market surveillance to monitor safety and efficacy. Our product candidates will also be subject to ongoing regulatory requirements governing the manufacturing, labeling, packaging, storage, distribution, safety surveillance, advertising, promotion, recordkeeping and reporting of adverse events and other post-market information. These requirements include registration with the FDA, as well as continued compliance with current Good Clinical Practices regulations, or cGCPs, for any clinical trials that we conduct post-approval. In addition, manufacturers of drug products and their facilities are subject to continual review and periodic inspections by the FDA and other regulatory authorities for compliance with current Good Manufacturing Processes, or cGMP, requirements relating to quality control, quality assurance and corresponding maintenance of records and documents.

The FDA has the authority to require a REMS as part of an NDA or after approval, which may impose further requirements or restrictions on the distribution or use of an approved drug, such as limiting prescribing to certain physicians or medical centers that have undergone specialized training, limiting treatment to patients who meet certain safe-use criteria or requiring patient testing, monitoring and/or enrollment in a registry.

With respect to sales and marketing activities by us or any future partner, advertising and promotional materials must comply with FDA rules in addition to other applicable federal, state and local laws in the United States and similar legal requirements in other countries. In the United States, the distribution of product samples to physicians must comply with the requirements of the U.S. Prescription Drug Marketing Act. Application holders must obtain FDA approval for product and manufacturing changes, depending on the nature of the change. We may also be subject, directly or indirectly through our customers and partners, to various fraud and abuse laws, including, without limitation, the U.S. Anti-Kickback Statute, U.S. False Claims Act, and similar state laws, which impact, among other things, our proposed sales, marketing, and scientific/educational grant programs. If we participate in the U.S. Medicaid Drug Rebate Program, the Federal Supply Schedule of the U.S. Department of Veterans Affairs, or other government drug programs, we will be subject to complex laws and regulations regarding reporting and payment obligations. All of these activities are also potentially subject to U.S. federal and state consumer protection and unfair competition laws. Similar requirements exist in many of these areas in other countries.

In addition, if any of our product candidates are approved for a particular indication, our product labeling, advertising and promotion would be subject to regulatory requirements and continuing regulatory review. The FDA strictly regulates the promotional claims that may be made about prescription products. In particular, a product may not be promoted for uses that are not approved by the FDA as reflected in the product's approved labeling. If we receive marketing approval for our product candidates, physicians may nevertheless legally prescribe our products to their patients in a manner that is inconsistent with the approved label. If we are found to have promoted such off-label uses, we may become subject to significant liability and government fines. 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 sanctions. The federal government has levied large civil and criminal fines against companies for alleged improper promotion and has enjoined several companies from engaging in off-label promotion. The FDA has also requested that companies enter into consent decrees of permanent injunctions under which specified promotional conduct is changed or curtailed.

If we or a regulatory agency discovers previously unknown problems with a product, such as adverse events of unanticipated severity or frequency, problems with the facility where the product is manufactured, or we or our manufacturers fail to comply with applicable regulatory requirements, we may be subject to the following administrative or judicial sanctions:

- restrictions on the marketing or manufacturing of the product, withdrawal of the product from the market, or voluntary or mandatory product recalls;
- issuance of warning letters or untitled letters;
- clinical holds;
- injunctions or the imposition of civil or criminal penalties or monetary fines;
- suspension or withdrawal of regulatory approval;
- suspension of any ongoing clinical trials;

- refusal to approve pending applications or supplements to approved applications filed by us, or suspension or revocation of product license approvals;

- suspension or imposition of restrictions on operations, including costly new manufacturing requirements; or

- product seizure or detention or refusal to permit the import or export of product.

The occurrence of any event or penalty described above may inhibit our ability to commercialize our product candidates and generate revenue. Adverse regulatory action, whether pre- or post-approval, can also potentially lead to product liability claims and increase our product liability exposure.

Obtaining and maintaining regulatory approval of our product candidates in one jurisdiction does not mean that we will be successful in obtaining regulatory approval of our product candidates in other jurisdictions. Obtaining and maintaining regulatory approval of our product candidates in one jurisdiction does not guarantee that we will be able to obtain or maintain regulatory approval in any other jurisdiction, 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, 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 preclinical studies or clinical trials, as clinical studies conducted in one jurisdiction may not be accepted by regulatory authorities in other jurisdictions. In many jurisdictions outside the United States, a product candidate must be approved for reimbursement before it can be approved for sale in that jurisdiction. In some cases, the price that we intend to charge for our products is also subject to approval.

Obtaining foreign regulatory approvals and 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.

We currently have a limited sales and marketing organization. If we are unable to secure a sales and marketing partner or establish satisfactory sales and marketing capabilities, we may not successfully commercialize any of our product candidates. As of the date of this prospectus, we have limited sales and marketing personnel. In order to commercialize products that are approved for commercial sales, we must either collaborate with third parties that have such commercial infrastructure or develop our own sales and marketing infrastructure. If we are not successful entering into appropriate collaboration arrangements, or recruiting sufficient sales and marketing personnel or in building a sales and marketing infrastructure, we will have difficulty successfully commercializing our product candidates, which would adversely affect our business, operating results and financial condition.

We may not be able to enter into collaboration agreements on terms acceptable to us or at all. In addition, even if we enter into such relationships, we may have limited or no control over the sales, marketing and distribution activities of these third parties. Our future revenues may depend heavily on the success of the efforts of these third parties. If we elect to establish a sales and marketing infrastructure we may not realize a positive return on this investment. In addition, we will have to compete with established and well-funded pharmaceutical and biotechnology companies to recruit, hire, train and retain sales and marketing personnel. Factors that may inhibit our efforts to commercialize our product candidates without strategic partners or licensees include:

- our inability to recruit and retain adequate numbers of effective sales and marketing personnel;

- the inability of sales personnel to obtain access to or persuade adequate numbers of physicians to prescribe any of our product candidates;

- the lack of complementary products to be offered by sales personnel, which may put us at a competitive disadvantage relative to companies with more extensive product lines; and

- unforeseen costs and expenses associated with creating an independent sales and marketing organization.

We face competition from other biotechnology and pharmaceutical companies and our operating results will suffer if we fail to compete effectively. The biotechnology and pharmaceutical industries are intensely competitive and subject to rapid and significant technological change. We have existing competitors and potential new competitors in a number of jurisdictions, many of which have or will have substantially greater name recognition, commercial infrastructures and financial, technical and personnel resources than we have. Established competitors may invest heavily to quickly discover and develop novel compounds that could make any of our product candidates obsolete or uneconomical. In addition, mergers and acquisitions in the biotechnology and pharmaceutical industries may result in even more resources being concentrated among a smaller number of our competitors, potentially reducing or eliminating our commercial opportunity. Furthermore, such potential competitors may enter the market before us, and their products may be designed to circumvent our granted patents and pending patent applications. They may also challenge, narrow or invalidate our granted patents or our patent applications, and such patents and patent applications may fail to provide adequate protection for our product candidates. Any new product that competes with an approved product may need to demonstrate compelling advantages in efficacy, cost, convenience, tolerability and safety to be commercially successful. Other competitive factors, including generic competition, could force us to lower prices or could result in reduced sales. In addition, new products developed by others could emerge as competitors to our product candidates. If we are not able to compete effectively against our current and future competitors, our business will not grow and our financial condition and operations will suffer.

Current and future legislation may increase the difficulty and cost for us to obtain marketing approval of and commercialize our product candidates and affect the prices we may obtain. In the United States and some foreign jurisdictions, there have been a number of legislative and regulatory changes and proposed changes regarding the healthcare system that could prevent or delay marketing approval for our product candidates, restrict or regulate post-approval activities and affect our ability to profitably sell our product candidates. Legislative and regulatory proposals have been made to expand post-approval requirements and restrict sales and promotional activities for pharmaceutical products. We do not know whether additional legislative changes will be enacted, or whether the FDA regulations, guidance or interpretations will be changed, or what the impact of such changes on the marketing approvals of our product candidates, if any, may be. In addition, increased scrutiny by the U.S. Congress of the FDA's approval process may significantly delay or prevent marketing approval, as well as subject us to more stringent product labeling and post-marketing testing and other requirements.

In the United States, the Medicare Modernization Act, or MMA, changed the way Medicare covers and pays for pharmaceutical products. The legislation expanded Medicare coverage for drug purchases by the elderly and introduced a new reimbursement methodology based on average sales prices for drugs. In addition, this legislation authorized Medicare Part D prescription drug plans to use formularies where they can limit the number of drugs that will be covered in any therapeutic class. As a result of this legislation and the expansion of federal coverage of drug products, we expect that there will be additional pressure to contain and reduce costs. These cost reduction initiatives and other provisions of this legislation could decrease the coverage and price that we receive for our product candidates and could seriously harm our business. While the MMA applies only to drug benefits for Medicare beneficiaries, private payors often follow Medicare coverage policy and payment limitations in setting their own reimbursement rates, and any reduction in reimbursement that results from the MMA may result in a similar reduction in payments from private payors.

In March 2010, the Patient Protection and Affordable Care Act, as amended by the Health Care and Education Reconciliation Act, collectively referred to as the Health Care Reform Law, was enacted, which substantially changes the way health care is financed by both governmental and private insurers, and significantly impacts the U.S. pharmaceutical industry. The Health Care Reform Law, among other things, imposed reporting requirements on manufacturers related to drug samples and financial relationships with physicians and teaching hospitals, 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 established a Medicare Part D coverage gap discount program.

In addition, other legislative changes have been proposed and adopted in the United States since the Health Care Reform Law was enacted. These changes include, among others, aggregate reductions of Medicare payments to providers of up to 2% per fiscal year. We expect that additional state and federal healthcare reform measures will be adopted in the future, which may alter or completely replace the existing healthcare financing structure. Any of these reform measures could limit the amounts that federal and state governments will pay for healthcare products and services, which could result in reduced demand for any such product candidate that we may have developed or additional pricing pressures on our business.

The healthcare regulatory environment in the U.S. is still in flux, and judicial challenges and legislative initiatives to modify, limit, or repeal the Health Care Reform Law continue, and may increase in light of the change in administration following the 2016 U.S. presidential election.

Since January 2017, President Trump has signed two executive orders and other directives designed to delay, circumvent, or loosen certain requirements mandated by the Health Care Reform Law. Concurrently, Congress has considered legislation that would repeal or repeal and replace all or part of the Health Care Reform Law. While Congress has not passed repeal legislation, the Tax Cuts and Jobs Act of 2017 includes a provision repealing, effective January 1, 2019, the tax-based shared responsibility payment imposed by the Health Care Reform Law on certain individuals who fail to maintain qualifying health coverage for all or part of a year that is commonly referred to as the "individual mandate." Additionally, on January 22, 2018, President Trump signed a continuing resolution on appropriations for fiscal year 2018 that delayed the implementation of certain Health Care Reform Law-mandated fees, including the so-called "Cadillac" tax on certain high cost employer-sponsored insurance plans, the annual fee imposed on certain health insurance providers based on market share, and the medical device excise tax on non-exempt medical devices. Congress may consider other legislation to repeal or replace elements of the Health Care Reform Law. We cannot predict the impact on our business of changes to current laws and regulations. However, any changes that lower reimbursements for products for which we may obtain regulatory approval, or that impose administrative and financial burdens on us, could adversely affect our business.

The policies of the FDA or similar regulatory authorities may change and additional government regulations may be enacted that could prevent, limit or delay regulatory approval of our product candidates. For example, in December 2016, the 21st Century Cures Act, was signed into law. The 21st Century Cures Act, among other things, is intended to modernize the regulation of drugs and biologics and spur innovation, but it has not yet been fully implemented and its ultimate implementation is unclear. Furthermore, the Trump administration has taken several executive actions, including the issuance of a number of Executive Orders, that could impose significant burdens on, or otherwise materially delay, the FDA's ability to engage in routine regulatory and oversight activities such as implementing statutes through rulemaking, issuance of guidance, and review and approval of marketing applications. If these executive actions impose constraints on FDA's ability to engage in oversight and implementation activities in the normal course, our business may be negatively impacted. 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, our product candidates may lose any regulatory approval that may have been obtained and we may not achieve or sustain profitability, which would adversely affect our business.

Our product candidates may face competition sooner than expected. Our success will depend in part on our ability to obtain and maintain patent protection for our certain of our product candidates and technologies and to prevent third parties from infringing upon our proprietary rights. We also intend to seek data exclusivity or market exclusivity for our product candidates provided under the FDCA, and similar laws in other countries. The FDCA provides three years of marketing exclusivity for an 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, for new indications, dosages, or strengths of an existing drug. This three-year exclusivity covers only the conditions associated with the new clinical investigations and does not prohibit the FDA from approving ANDAs for drugs containing the original active agent.

Even if our product candidates are considered to be reference products eligible for three years of exclusivity under the FDCA, another company could market competing products if the FDA approves a full NDA for such product containing the sponsor's own preclinical data and data from adequate and well-controlled clinical trials to demonstrate the safety, purity and potency of the products. Moreover, an amendment or repeal of the FDCA could result in a shorter exclusivity period for our product candidates, which would have a material adverse effect on our business.

Our future growth may depend, in part, on our ability to penetrate international markets, where we would be subject to additional regulatory burdens and other risks and uncertainties. Our future profitability may depend, in part, on our ability to commercialize our product candidates in international markets for which we intend to rely on collaborations with third parties. If we commercialize any of our product candidates in international markets, we would be subject to additional risks and uncertainties, including:

- our customers' ability to obtain reimbursement for our product candidates in international markets;
- our inability to directly control commercial activities because we are relying on third parties;
- the burden of complying with complex and changing international 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.

International 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.

If we market any of our product candidates in a manner that violates healthcare fraud and abuse laws, or if we violate government price reporting laws, we may be subject to civil or criminal penalties. The FDA enforces laws and regulations which require that the promotion of pharmaceutical products be consistent with the approved prescribing information. While physicians may prescribe an approved product for a so-called "off label" use, it is unlawful for a pharmaceutical company to promote its products in a manner that is inconsistent with its approved label and any company which engages in such conduct can be subject to significant liability. Similarly, industry codes in the EU and other foreign jurisdictions prohibit companies from engaging in off-label promotion and regulatory agencies in various countries enforce violations of the code with civil penalties. While we intend to ensure that our promotional materials are consistent with our label, regulatory agencies may disagree with our assessment and may issue untitled letters, warning letters or may institute other civil or criminal enforcement proceedings. In addition to FDA restrictions on marketing of pharmaceutical products, several other types of state and federal healthcare fraud and abuse laws have been applied in recent years to restrict certain marketing practices in the pharmaceutical industry. These laws include the U.S. Anti-Kickback Statute, U.S. False Claims Act and similar state laws. Because of the breadth of these laws and the narrowness of the safe harbors, it is possible that some of our business activities could be subject to challenge under one or more of these laws.

The U.S. Anti-Kickback Statute prohibits, among other things, knowingly and willfully offering, paying, soliciting or receiving remuneration to induce, or in return for, purchasing, leasing, ordering or arranging for the purchase, lease or order of any healthcare item or service reimbursable under Medicare, Medicaid or other federally financed healthcare programs. This statute has been interpreted broadly to apply to arrangements between pharmaceutical manufacturers on the one hand and prescribers, purchasers and formulary managers on the other. Although there are several statutory exemptions and regulatory safe harbors protecting certain common activities from prosecution, the exemptions and safe harbors are drawn narrowly, and practices that involve remuneration intended to induce prescribing, purchasing or recommending may be subject to scrutiny if they do not qualify for an exemption or safe harbor. Our practices may not, in all cases, meet all of the criteria for safe harbor protection from anti-kickback liability. Moreover, recent health care reform legislation has strengthened these laws. For example, the Health Care Reform Law, among other things, amends the intent requirement of the U.S. Anti-Kickback Statute and criminal health care fraud statutes; a person or entity no longer needs to have actual knowledge of this statute or specific intent to violate it. In addition, the Health Care Reform Law provides that the government may assert that a claim including items or services resulting from a violation of the U.S. Anti-Kickback Statute constitutes a false or fraudulent claim for purposes of the U.S. False Claims Act. Federal false claims laws prohibit any person from knowingly presenting, or causing to be presented, a false claim for payment to the federal government or knowingly making, or causing to be made, a false statement to get a false claim paid.

Over the past few years, several pharmaceutical and other healthcare companies have been prosecuted under these laws for a variety of alleged promotional and marketing activities, such as: allegedly providing free trips, free goods, sham consulting fees and grants and other monetary benefits to prescribers; reporting to pricing services inflated average wholesale prices that were then used by federal programs to set reimbursement rates; engaging in off-label promotion that caused claims to be submitted to Medicare or Medicaid for non-covered, off-label uses; and submitting inflated best price information to the Medicaid Rebate Program to reduce liability for Medicaid rebates. Most states also have statutes or regulations similar to the U.S. Anti-Kickback Statute and the U.S. False Claims Act, which apply to items and services reimbursed under Medicaid and other state programs, or, in several states, apply regardless of the payor. Sanctions under these federal and state laws may include substantial civil monetary penalties, exclusion of a manufacturer's products from reimbursement under government programs, substantial criminal fines and imprisonment.

We will be completely dependent on third parties to manufacture our product candidates, and our commercialization of our product candidates could be halted, delayed or made less profitable if those third parties fail to obtain manufacturing approval from the FDA or comparable foreign regulatory authorities, fail to provide us with sufficient quantities of our product candidates or fail to do so at acceptable quality levels or prices. We do not currently have, nor do we plan to acquire, the capability or infrastructure to manufacture the active pharmaceutical ingredient, or API, in our product candidates for use in our clinical trials or for commercial product, if any. In addition, we do not have the capability to encapsulate any of our product candidates as a finished drug product for commercial distribution. As a result, we will be obligated to rely on contract manufacturers, if and when any of our product candidates are approved for commercialization. While we have entered into certain agreements with contract manufacturers for clinical and commercial supply, there can be no assurance we will be able to maintain those relationships or engage additional contract manufacturers for clinical or commercial supply of any of our product candidates on favorable terms to us, or at all.

The facilities used by our contract manufacturers to manufacture our product candidates must be approved by the FDA or comparable foreign regulatory authorities pursuant to inspections that will be conducted after we submit an NDA or BLA to the FDA or their equivalents to other relevant regulatory authorities. We will not control the manufacturing process of, and will be completely dependent on, our contract manufacturing partners for compliance with cGMPs for manufacture of both active drug substances and finished drug products. These cGMP regulations cover all aspects of the manufacturing, testing, quality control and record keeping relating to our product candidates. If our contract manufacturers do not successfully manufacture material that conforms to our specifications and the strict regulatory requirements of the FDA or others, they will not be able to secure or maintain regulatory approval for their manufacturing facilities. If the FDA or a comparable foreign regulatory authority does not approve these facilities for the manufacture of our product candidates or if it withdraws any such approval in the future, we may need to find alternative manufacturing facilities, which would significantly impact our ability to develop, obtain regulatory approval for or market our product candidates, if approved.

Our contract manufacturers will be subject to ongoing periodic unannounced inspections by the FDA and corresponding state and foreign agencies for compliance with cGMPs and similar regulatory requirements. We will not have control over our contract manufacturers' compliance with these regulations and standards. Failure by any of our contract manufacturers to comply with applicable regulations could result in sanctions being imposed on us, including fines, injunctions, civil penalties, failure to grant approval to market any of our product candidates, delays, suspensions or withdrawals of approvals, operating restrictions and criminal prosecutions, any of which could significantly and adversely affect our business. In addition, we will not have control over the ability of our contract manufacturers to maintain adequate quality control, quality assurance and qualified personnel. Failure by our contract manufacturers to comply with or maintain any of these standards could adversely affect our ability to develop, obtain regulatory approval for or market any of our product candidates.

If, for any reason, these third parties are unable or unwilling to perform, we may not be able to terminate our agreements with them, and we may not be able to locate alternative manufacturers or formulators or enter into favorable agreements with them and we cannot be certain that any such third parties will have the manufacturing capacity to meet future requirements. If these manufacturers or any alternate manufacturer of finished drug product experiences any significant difficulties in its respective manufacturing processes for our API or finished products or should cease doing business with us, we could experience significant interruptions in the supply of any of our product candidates or may not be able to create a supply of our product candidates at all. Were we to encounter manufacturing issues, our ability to produce a sufficient supply of any of our product candidates might be negatively affected. Our inability to coordinate the efforts of our third party manufacturing partners, or the lack of capacity available at our third party manufacturing partners, could impair our ability to supply any of our product candidates at required levels. Because of the significant regulatory requirements that we would need to satisfy in order to qualify a new bulk or finished product manufacturer, if we face these or other difficulties with our current manufacturing partners, we could experience significant interruptions in the supply of any of our product candidates if we decided to transfer the manufacture of any of our product candidates to one or more alternative manufacturers in an effort to deal with the difficulties.

Any manufacturing problem or the loss of a contract manufacturer could be disruptive to our operations and result in lost sales. Additionally, we rely on third parties to supply the raw materials needed to manufacture our potential products. Any reliance on suppliers may involve several risks, including a potential inability to obtain critical materials and reduced control over production costs, delivery schedules, reliability and quality. Any unanticipated disruption to a future contract manufacturer caused by problems at suppliers could delay shipment of any of our product candidates, increase our cost of goods sold and result in lost sales.

We cannot guarantee that our future manufacturing and supply partners will be able to reduce the costs of commercial scale manufacturing of any of our product candidates over time. If the commercial-scale manufacturing costs of any of our product candidates are higher than expected, these costs may significantly impact our operating results. In order to reduce costs, we may need to develop and implement process improvements. However, in order to do so, we will need, from time to time, to notify or make submissions with regulatory authorities, and the improvements may be subject to approval by such regulatory authorities. We cannot be sure that we will receive these necessary approvals or that these approvals will be granted in a timely fashion. We also cannot guarantee that we will be able to enhance and optimize output in our commercial manufacturing process. If we cannot enhance and optimize output, we may not be able to reduce our costs over time.

We may not be able to establish agreements with third parties with whom we wish to collaborate and, if we are able to establish them, we may not be able to establish them on commercially reasonable terms, which could result in alterations or delays of our development and commercialization plans. We face significant competition in seeking appropriate third parties. Whether we reach a definitive agreement will depend, among other things, upon our assessment of the third parties' resources and expertise, the terms and conditions of the proposed agreement, and the proposed parties' 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 product candidate, the costs and complexities of manufacturing and delivering the 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. Potential third parties 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. The terms of any arrangements that we may establish may also not be favorable to us.

Agreements with third parties are complex and time-consuming to negotiate and document. In addition, there have been a significant number of recent business combinations among large pharmaceutical companies that have resulted in a reduced number of potential future third parties. We may not be able to negotiate agreements 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 the product candidate, reduce or delay its development program, delay its potential commercialization or reduce the scope of any sales or marketing activities, or increase our expenditures and undertake development or commercialization activities at our own expense. If we elect to increase our expenditures to fund development or commercialization activities on our own, we may need to obtain additional capital, which may not be available to us on acceptable terms or at all. If we do not have sufficient funds, we may not be able to further develop our product candidate or bring it to market and generate product revenue.

In addition, any future agreements that we enter into may not be successful. The success of our arrangements will depend heavily on the efforts and activities of our third party collaborators. Collaborators generally have significant discretion in determining the efforts and resources that they will apply to these collaborations. Disagreements between parties to an agreement regarding clinical development and commercialization matters can lead to delays in the development process or commercializing the applicable product candidate and, in some cases, termination of the agreement. These disagreements can be difficult to resolve if neither of the parties has final decision-making authority. Collaborations with pharmaceutical or biotechnology companies and other third parties often are terminated or allowed to expire by the other party. Any such termination or expiration would adversely affect us financially and could harm our business reputation.

We expect to rely on third parties to conduct clinical trials for our product candidates. If these third parties do not successfully carry out their contractual duties or meet expected deadlines, we may not be able to obtain regulatory approval for or commercialize any of our product candidates and our business would be substantially harmed. We have entered into agreements with third-party CROs to conduct and manage our clinical programs including contracting with clinical sites to perform our clinical studies. We plan to rely heavily on these parties for execution of clinical studies for our product candidates and will control only certain aspects of their activities. Nevertheless, we will be responsible for ensuring that each of our studies is conducted in accordance with the applicable protocol, legal, regulatory and scientific standards, and our reliance on CROs and clinical sites will not relieve us of our regulatory responsibilities. We and our CROs will be required to comply with cGCPs, which are regulations and guidelines enforced by the FDA, the Competent Authorities of the Member States of the European Economic Area and comparable foreign regulatory authorities for any products in clinical development. The FDA and its foreign equivalents enforce these cGCP regulations through periodic inspections of trial sponsors, principal investigators and trial sites. If we or our CROs fail to comply with applicable cGCPs, the clinical data generated in our clinical trials may be deemed unreliable and the FDA or comparable foreign regulatory authorities may require us to perform additional clinical trials before approving our marketing applications. We cannot assure you that, upon inspection, the FDA or other regulatory authorities will determine that any of our clinical trials comply with cGCPs. In addition, our clinical trials must be conducted with products produced under cGMP regulations and will require a large number of test subjects. Our failure or the failure of our CROs or clinical sites to comply with these regulations may require us to repeat clinical trials, which would delay the regulatory approval process and could also subject us to enforcement action up to and including civil and criminal penalties.

Although we intend to design the clinical trials for our product candidates in consultation with CROs, we expect that the CROs will manage all of the clinical trials conducted at contracted clinical sites. As a result, many important aspects of our drug development programs would be outside of our direct control. In addition, the CROs and clinical sites may not perform all of their obligations under arrangements with us or in compliance with regulatory requirements. If the CROs or clinical sites do not perform clinical trials in a satisfactory manner, breach their obligations to us or fail to comply with regulatory requirements, the development and commercialization of any of our product candidates for the subject indication may be delayed or our development program materially and irreversibly harmed. We cannot control the amount and timing of resources these CROs and clinical sites will devote to our program or any of our product candidates. If we are unable to rely on clinical data collected by our CROs, we could be required to repeat, extend the duration of, or increase the size of our clinical trials, which could significantly delay commercialization and require significantly greater expenditures.

If any of our relationships with these third-party CROs or clinical sites terminate, we may not be able to enter into arrangements with alternative CROs or clinical sites. If CROs do not successfully carry out their contractual duties or obligations or meet expected deadlines, if they need to be replaced or if the quality or accuracy of the clinical data they obtain is compromised due to the failure to adhere to our clinical protocols, regulatory requirements or for other reasons, any such clinical trials may be extended, delayed or terminated, and we may not be able to obtain regulatory approval for or successfully commercialize our product candidates. As a result, our financial results and the commercial prospects for any of our product candidates would be harmed, our costs could increase and our ability to generate revenue could be delayed.

We enter into various contracts in the normal course of our business, some or all of which may require us to indemnify the other party to the contract. In the event we have to perform under these indemnification provisions, it could have an adverse effect on our business, financial condition and results of operations. In the normal course of business, we periodically may enter into commercial, service, collaboration, licensing, consulting and other agreements that contain indemnification provisions. With respect to our commercial agreements, vendors typically ask for indemnification from any third-party product liability claims that could result from the production, use or consumption of the product, as well as for alleged infringements of any patent or other intellectual property right by a third party. Should our obligation under an indemnification provision exceed applicable insurance coverage or if we were denied insurance coverage, our business, financial condition and results of operations could be adversely affected. Similarly, if we are relying on a third party to indemnify us and the party is denied insurance coverage or the indemnification obligation exceeds the applicable insurance coverage and does not have other assets available to indemnify us, our business, financial condition and results of operations could be adversely affected.

Our CEO holds ownership interest in some of the third parties we have entered into agreements with. The terms and fee arrangements of these agreements, we believe, approximate the terms and fee arrangements of an agreement that would have been obtained in an arm's length and unaffiliated transaction. Nonetheless, this may expose us to claims of interested transactions and other fiduciary suits. Our Chief Executive Officer, Sean Brynjelsen, has a material ownership interest in several companies from which we have licensed or acquired product development and marketing rights. These include a 27% stake in Andersen Pharma, LLC (license for DS-100), 33% stake in Eyemax, LLC (license for EM-100), and 50% stake in Selenix, LLC (license for DS-200). We are required to pay to these parties licensing fees, milestone payments and royalty payments. We believe the terms of the transactional agreements, including the licensing fees, milestone payments and royalty payments, approximate the terms and payments we could have obtained in an arms' length transaction with an unaffiliated party. Nonetheless, a stockholder may seek to challenge these agreements on grounds that they are not in the best interest of our company and our board breached its fiduciary duty by approving such agreements.

Any termination or suspension of, or delays in the commencement or completion of, any necessary studies of any of our product candidates for any indications could result in increased costs to us, delay or limit our ability to generate revenue and adversely affect our commercial prospects. The commencement and completion of clinical studies can be delayed for a number of reasons, including delays related to:

- the FDA or a comparable foreign regulatory authority failing to grant permission to proceed and placing the clinical study on hold;
- subjects for clinical testing failing to enroll or remain in our trials at the rate we expect;
- a facility manufacturing any of our product candidates being ordered by the FDA or other government or regulatory authorities to temporarily or permanently shut down due to violations of cGMP requirements or other applicable requirements, or cross-contaminations of product candidates in the manufacturing process;
- any changes to our manufacturing process that may be necessary or desired;
- subjects choosing an alternative treatment for the indications for which we are developing our product candidates, or participating in competing clinical studies;
- subjects experiencing severe or unexpected drug-related adverse effects;
- reports from clinical testing on similar technologies and products raising safety and/or efficacy concerns;
- third-party clinical investigators losing their license or permits necessary to perform our clinical trials, not performing our clinical trials on our anticipated schedule or employing methods consistent with the clinical trial protocol, cGMP requirements, or other third parties not performing data collection and analysis in a timely or accurate manner;
- inspections of clinical study sites by the FDA, comparable foreign regulatory authorities, or IRBs finding regulatory violations that require us to undertake corrective action, result in suspension or termination of one or more sites or the imposition of a clinical hold on the entire study, or that prohibit us from using some or all of the data in support of our marketing applications;
- third-party contractors becoming debarred or suspended or otherwise penalized by the FDA or other government or regulatory authorities for violations of regulatory requirements, in which case we may need to find a substitute contractor, and we may not be able to use some or any of the data produced by such contractors in support of our marketing applications;
- one or more IRBs refusing to approve, suspending or terminating the study at an investigational site, precluding enrollment of additional subjects, or withdrawing its approval of the trial; reaching agreement on acceptable terms with prospective CROs and clinical trial sites, the terms of which can be subject to extensive negotiation and may vary significantly among different CROs and trial sites;
- deviations of the clinical sites from trial protocols or dropping out of a trial;
- adding new clinical trial sites;
- the inability of the CRO to execute any clinical trials for any reason; and
- government or regulatory delays or "clinical holds" requiring suspension or termination of a trial.

Product development costs for any of our product candidates will increase if we have delays in testing or approval or if we need to perform more or larger clinical studies than planned. Additionally, changes in regulatory requirements and policies may occur and we may need to amend study protocols to reflect these changes. Amendments may require us to resubmit our study protocols to the FDA, comparable foreign regulatory authorities, and IRBs for reexamination, which may impact the costs, timing or successful completion of that study. If we experience delays in completion of, or if we, the FDA or other regulatory authorities, the IRB, or other reviewing entities, or any of our clinical study sites suspend or terminate any of our clinical studies of any of our product candidates, its commercial prospects may be materially harmed and our ability to generate product revenues will be delayed. Any delays in completing our clinical trials will increase our costs, slow down our development and approval process and jeopardize our ability to commence product sales and generate revenues. Any of these occurrences may harm our business, financial condition and prospects significantly. In addition, many of the factors that cause, or lead to, termination or suspension of, or a delay in the commencement or completion of, clinical studies may also ultimately lead to the denial of regulatory approval of our product candidates. In addition, if one or more clinical studies are delayed, our competitors may be able to bring products to market before we do, and the commercial viability of any of our product candidates could be significantly reduced.

Clinical drug development involves a lengthy and expensive process with an uncertain outcome, and results of earlier studies and trials may not be predictive of future trial results. Clinical testing of drug product candidates is expensive and can take many years to complete, and its outcome is inherently uncertain. Failure can occur at any time during the clinical trial process. The results of pre-clinical studies and early clinical trials may not be predictive of the results of later-stage clinical trials. We cannot assure you that the FDA or comparable foreign regulatory authorities will view the results as we do or that any future trials of any of our product candidates will achieve positive results. Product candidates in later stages of clinical trials may fail to show the desired safety and efficacy traits despite having progressed through pre-clinical studies and initial clinical trials. A number of companies in the biopharmaceutical industry have suffered significant setbacks in advanced clinical trials due to lack of efficacy or adverse safety profiles, notwithstanding promising results in earlier trials. Any future clinical trial results for our product candidates may not be successful.

In addition, a number of factors could contribute to a lack of favorable safety and efficacy results for any of our product candidates. For example, such trials could result in increased variability due to varying site characteristics, such as local standards of care, differences in evaluation period and surgical technique, and due to varying patient characteristics including demographic factors and health status.

We have not conducted Phase 3 clinical trials for any of our product candidates, and we may be delayed in commercializing or fail to find success in these trials. Further, the results of any Phase 3 clinical trial may not be predictive of future trial results. Positive results in preclinical testing and early clinical trials do not ensure that later clinical trials will be successful. A number of pharmaceutical companies have suffered significant setbacks in clinical trials, including in Phase 3, after promising results in preclinical testing and early clinical trials. These setbacks have included negative safety and efficacy observations in later clinical trials, including previously unreported adverse events.

To date, we have not conducted Phase 3 trials. Our Phase 3 clinical trials may not be successful, and even if they are, the FDA may not approve our NDA for products that are successful in the trial, may not agree that the benefits outweigh its risks, or may raise new concerns regarding our clinical trial designs. The Phase 3 trial process is often long, complex, costly and uncertain, and delays or failure is common. These clinical trials will be substantially broader than a Phase 2 clinical trial and will require us to enlist a considerably larger number of patients in multiple clinics and medical centers across a number of different countries. Before commencing Phase 3 clinical trials in the U.S. we will also need to agree on a protocol with the FDA.

Phase 3 clinical trials often produce unsatisfactory results even though prior clinical trials were successful. Moreover, the results of clinical trials may be unsatisfactory to the FDA or foreign regulatory authorities even if we believe those clinical trials to be successful. The FDA or applicable foreign regulatory agencies may suspend one or all of our clinical trials or require that we conduct additional clinical, nonclinical, manufacturing, validation or drug product quality studies and submit that data before considering or reconsidering any NDA or similar foreign regulatory application we may submit. Depending on the extent of these additional studies, approval of any applications that we submit may be significantly delayed, or may require us to expend more resources than we have available. It is also possible that additional studies we conduct may not be considered sufficient by the FDA or applicable foreign regulatory agencies to provide regulatory approval.

If any of these outcomes occur, we may not receive approval for our product candidate.

Third-party coverage and reimbursement and health care cost containment initiatives and treatment guidelines may constrain our future revenues. Our ability to successfully market our product candidates will depend in part on the level of reimbursement that government health administration authorities, private health coverage insurers and other organizations provide for the cost of our products and related treatments. Countries in which any of our product candidates are sold through reimbursement schemes under national health insurance programs frequently require that manufacturers and sellers of pharmaceutical products obtain governmental approval of initial prices and any subsequent price increases. In certain countries, including the United States, government-funded and private medical care plans can exert significant indirect pressure on prices. We may not be able to sell our product candidates profitably if adequate prices are not approved or coverage and reimbursement is unavailable or limited in scope. Increasingly, third-party payors attempt to contain health care costs in ways that are likely to impact our development of products including:

- failing to approve or challenging the prices charged for health care products;
- introducing reimportation schemes from lower priced jurisdictions;
- limiting both coverage and the amount of reimbursement for new therapeutic products;
- denying or limiting coverage for products that are approved by the regulatory agencies but are considered to be experimental or investigational by third-party payors; and
- refusing to provide coverage when an approved product is used in a way that has not received regulatory marketing approval.

Risks Relating to Our Intellectual Property Rights

We will depend on rights to certain pharmaceutical compounds that have been acquired by us. We do not have complete control over these pharmaceutical compounds and any loss of our rights to them could prevent us from selling our products. We are dependent on the assignment and licensing from third parties for certain of our pharmaceutical compounds and potential product candidates. Our rights to use the pharmaceutical compounds we were assigned are subject to the negotiation of, continuation of and compliance with the terms of those assignments and licenses. Moreover, under these agreements, any related patents may remain under the control of the assignor or licensor. Our rights to develop and commercialize the product candidates are subject to the validity of the intellectual property rights. Enforcement of any assigned or licensed patents or defense or any claims asserting the invalidity of these patents is often subject to the control or cooperation of the assignor or licensor. Legal action could be initiated against the original owners of the intellectual property that we acquired and an adverse outcome in such legal action could harm our business because it might prevent such companies or institutions from continuing to assign intellectual property that we may need to operate our business.

In addition, our rights to practice the inventions claimed in any patents and patent applications are subject to our assignors and licensors abiding by the terms of those agreements and not terminating them. These agreements may be terminated by the assignor or licensor if we are in material breach of certain terms or conditions of the agreement or in certain other circumstances. Our rights under these agreements are subject to our continued compliance with the terms of the agreements, including the payment of royalties and other payment due under the agreements. Termination of these agreements could prevent us from marketing some or all of our products. Because of the complexity of our products and the patents, determining the scope of the assignment or license and related royalty obligations can be difficult and can lead to disputes between us and the assignor or licensor. An unfavorable resolution of such a dispute could lead to an increase in the royalties payable pursuant to the agreement. If the assignor or licensor believed we were not paying the royalties due under the agreement or were otherwise not in compliance with the terms of the agreement, the assignor or licensor might attempt to revoke the agreement. If such an attempt were successful, we might be barred from producing and selling some or all of our products.

It is difficult and costly to protect our intellectual property rights, and we cannot ensure the protection of these rights. Our commercial success will depend, in part, on obtaining and maintaining patent protection for our technologies, products and processes, successfully defending these patents against third-party challenges and successfully enforcing these patents against third party competitors. The patent positions of pharmaceutical companies can be highly uncertain and involve complex legal, scientific and factual questions for which important legal principles remain unresolved. Changes in either the patent laws or in interpretations of patent laws may diminish the value of our intellectual property. Accordingly, we cannot predict the breadth of claims that may be allowable or enforceable in our patents. Patent and patent applications relating to our product candidates and related technologies may be challenged, invalidated or circumvented by third parties and might not protect us against competitors with similar products or technologies.

The degree of future protection for our proprietary rights is uncertain, because legal means afford only limited protection and may not adequately protect our rights, permit us to gain or keep our competitive advantage, or provide us with any competitive advantage at all. For example, others have filed, and in the future are likely to file, patent applications covering products and technologies that are similar, identical or competitive to any of our product candidates, or important to our business. We cannot be certain that any patent application owned by a third party will not have priority over patent applications filed by us, or that we will not be involved in interference, opposition or invalidity proceedings before United States or foreign patent offices.

Additionally, if we or one of our licensing partners initiated legal proceedings against a third party to enforce a patent covering any product candidate, the defendant could counterclaim that the patent covering any other product candidate 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 include alleged failures to meet any of several statutory requirements, including lack of novelty, obviousness or non-enablement. Grounds for unenforceability assertions include allegations that someone connected with prosecution of the patent withheld relevant information from the U.S. PTO, or made a misleading statement, during prosecution. Third parties may also raise similar claims before administrative bodies in the United States or abroad, even outside the context of litigation. Such mechanisms include re-examination, post grant review and equivalent proceedings in foreign jurisdictions, e.g. opposition proceedings. Such proceedings could result in revocation or amendment of our patents or our licensors' patents in such a way that they no longer cover product candidates or competitive products. 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. If a defendant were to prevail on a legal assertion of invalidity and/or unenforceability, we would lose at least part, and perhaps all, of the patent protection on any product candidate. Such a loss of patent protection would have a material adverse impact on our business.

In the future, we may rely on know-how and trade secrets to protect technology, especially in cases when we believe patent protection is not appropriate or obtainable. However, know-how and trade secrets are difficult to protect. While we intend to require employees, academic collaborators, consultants and other contractors to enter into confidentiality agreements, we may not be able to adequately protect our trade secrets or other proprietary or licensed information. Typically, research collaborators and scientific advisors have rights to publish data and information in which we may have rights. If we cannot maintain the confidentiality of our proprietary technology and other confidential information, our ability to receive patent protection and our ability to protect valuable information owned by us may be imperiled. Enforcing a claim that a third-party entity illegally obtained and is using any of our trade secrets is expensive and time consuming, and the outcome is unpredictable. In addition, courts are sometimes less willing to protect trade secrets than patents. Moreover, our competitors may independently develop equivalent knowledge, methods and know-how.

We may not be able to protect our intellectual property rights throughout the world. 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 could be less extensive than those offered in the United States. Consequently, 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 have, or where we do not pursue and obtain, patent protection to develop their own products and further, may export otherwise infringing products to territories where we have patent protection, but enforcement is not as strong as that in the United States. These products may compete with our product 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 so competing.

Further, 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, especially those relating

to biotechnology. 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 may choose not to seek patent protection in certain countries, and we will not have the benefit of patent protection in such countries.

Moreover, proceedings to enforce our patent rights, or those of our licensors or partners, in foreign jurisdictions could result in substantial costs and divert our efforts and attention from other aspects of our business, could put our in-licensed patents, or any patents that we may own in the future, at risk of being invalidated or interpreted narrowly, could put our owned or in-licensed patent applications at risk of not issuing and could provoke third parties to assert claims against us. We may not prevail in any lawsuits that we initiate, and the damages or other remedies awarded, if any, may not be commercially meaningful. Accordingly, our efforts to enforce our intellectual property rights around the world may be inadequate to obtain a significant commercial advantage from the intellectual property that we develop or license.

If we fail to obtain or maintain patent protection or trade secret protection for our product candidates or our technologies, third parties could use our proprietary information, which could impair our ability to compete in the market and adversely affect our ability to generate revenues and attain profitability.

We may also rely on the trademarks we may develop to distinguish our products from the products of our competitors. We cannot guarantee that any trademark applications filed by us or our business partners will be approved. Third parties may also oppose such trademark applications, or otherwise challenge our use of the trademarks. In the event that the trademarks we use are successfully challenged, we could be forced to rebrand our products, which could result in loss of brand recognition, and could require us to devote resources to advertising and marketing new brands. Further, we cannot provide assurance that competitors will not infringe the trademarks we use, or that we will have adequate resources to enforce these trademarks.

Changes in either U.S. or foreign patent law or interpretation of such laws could diminish the value of patents in general, thereby impairing our ability to protect our products. As is the case with other biotechnology companies, our success is heavily dependent on intellectual property, particularly patents. Obtaining and enforcing patents in the biotechnology industry involve both technological and legal complexity, and it therefore is costly, time-consuming and inherently uncertain. In addition, on September 16, 2011, the Leahy-Smith America Invents Act (AIA), was signed into law. The AIA includes a number of significant changes to U.S. patent law, including provisions that affect the way patent applications will be prosecuted and may also affect patent litigation.

An important change introduced by the AIA is that, as of March 16, 2013, the United States transitioned to a "first-to-file" system for deciding which party should be granted a patent when two or more patent applications are filed by different parties claiming the same invention. A third party that files a patent application in the U.S. PTO after that date but before us could therefore be awarded a patent covering an invention of ours even if we had made the invention before it was made by the third party. This will require us to be cognizant going forward of the time from invention to filing of a patent application.

Among some of the other changes introduced by the AIA are changes that limit where a patentee may file a patent infringement suit and providing opportunities for third parties to challenge any issued patent in the U.S. PTO. This applies to all of our U.S. patents, even those issued before March 16, 2013. Because of a lower evidentiary standard necessary to invalidate a patent claim in U.S. PTO proceedings compared to the evidentiary standard in United States federal court, a third party could potentially provide evidence in a U.S. PTO proceeding sufficient for the U.S. PTO to hold a claim invalid even though the same evidence would be insufficient to invalidate the claim if first presented in a district court action. Accordingly, a third party may attempt to use the U.S. PTO procedures to invalidate our patent claims that would not have been invalidated if first challenged by the third party as a defendant in a district court action.

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

Our product candidates may infringe the intellectual property rights of others, which could increase our costs and delay or prevent our development and commercialization efforts. Our success depends in part on avoiding infringement of the proprietary technologies of others. The pharmaceutical industry has been characterized by frequent litigation regarding patent and other intellectual property rights. Identification of third party patent rights that may be relevant to our proprietary technology is difficult because patent searching is imperfect due to differences in terminology among patents, incomplete databases and the difficulty in assessing the meaning of patent claims. Additionally, because patent applications are maintained in secrecy until the application is published, we may be unaware of third-party patents that may be infringed by commercialization of any of our product candidates or any future product candidate. There may be certain issued patents and patent applications claiming subject matter that we may be required to license in order to research, develop or commercialize any of our product candidates, and we do not know if such patents and patent applications would be available to license on commercially reasonable terms, or at all. Any claims of patent infringement asserted by third parties would be time-consuming and may:

- result in costly litigation;
- divert the time and attention of our technical personnel and management;
- prevent us from commercializing a product until the asserted patent expires or is held finally invalid or not infringed in a court of law;
- require us to cease or modify our use of the technology and/or develop non-infringing technology; or
- require us to enter into royalty or licensing agreements.

Third parties may hold proprietary rights that could prevent any of our product candidates from being marketed. Any patent-related legal action against us claiming damages and seeking to enjoin commercial activities relating to any of our product candidates or our processes could subject us to potential liability for damages and require us to obtain a license to continue to manufacture or market any of our product candidates or any future product candidates. We cannot predict whether we would prevail in any such actions or that any license required under any of these patents would be made available on commercially acceptable terms, if at all. In addition, we cannot be sure that we could redesign our product candidates or any future product candidates or processes to avoid infringement, if necessary. Accordingly, an adverse determination in a judicial or administrative proceeding, or the failure to obtain necessary licenses, could prevent us from developing and commercializing any of our product candidates or a future product candidate, which could harm our business, financial condition and operating results.

We expect that there are other companies, including major pharmaceutical companies, working in the areas competitive to our proposed product candidates which either has resulted, or may result, in the filing of patent applications that may be deemed related to our activities. If we were to challenge the validity of these or any issued United States patent in court, we would need to overcome a statutory presumption of validity that attaches to every issued United States patent. This means that, in order to prevail, we would have to present clear and convincing evidence as to the invalidity of the patent's claims. If we were to challenge the validity of these or any issued United States patent in an administrative trial before the Patent Trial and Appeal Board in the United States Patent and Trademark Office, we would have to prove that the claims are unpatentable by a preponderance of the evidence. There is no assurance that a jury and/or court would find in our favor on questions of infringement, validity or enforceability.

Others may claim an ownership interest in our intellectual property which could expose us to litigation and have an adverse effect on our prospects. A third party may claim an ownership interest in one or more of our or our licensors' patents or other proprietary or intellectual property rights. A third party could bring legal actions against us and seek monetary damages and/or enjoin clinical testing, manufacturing and marketing of the affected product

or products. We cannot guarantee that a third party will not assert a claim or an interest in any of such patents or intellectual property. If we become involved in any litigation, it could consume a substantial portion of our resources, and cause a significant diversion of effort by our technical and management personnel. If any of these actions are successful, in addition to any potential liability for damages, we could be required to obtain a license to continue to manufacture or market the affected product, in which case we may be required to pay substantial royalties or grant cross-licenses to our patents. We cannot, however, assure you that any such license will be available on acceptable terms, if at all. Ultimately, we could be prevented from commercializing a product candidate, or be forced to cease some aspect of our business operations as a result of claims of patent infringement or violation of other intellectual property rights. Further, the outcome of intellectual property litigation is subject to uncertainties that cannot be adequately quantified in advance, including the demeanor and credibility of witnesses and the identity of any adverse party. This is especially true in intellectual property cases that may turn on the testimony of experts as to technical facts upon which experts may reasonably disagree.

We may be subject to claims that we have wrongfully hired an employee from a competitor or that we or our employees have wrongfully used or disclosed alleged confidential information or trade secrets of their former employers. As is commonplace in our industry, we will employ individuals who were previously employed at other pharmaceutical companies, including our competitors or potential competitors. Although no claims against us are currently pending, we may be subject in the future to claims that our employees or prospective employees are subject to a continuing obligation to their former employers (such as non-competition or non-solicitation obligations) or claims that our employees or we have inadvertently or otherwise used or disclosed trade secrets or other proprietary information of their former employers. Litigation may be necessary to defend against these claims. Even if we are successful in defending against these claims, litigation could result in substantial costs and be a distraction to management.

Risks Related to this Offering and Owning Our Common Stock

An active, liquid and orderly trading market for our shares may not develop, which may inhibit the ability of our shareholders to sell shares following this offering. The offering under this prospectus is an initial public offering of our common shares. Prior to this offering there has been no public market for our shares. Upon completion of this offering, our common stock will commence trading on the NASDAQ Capital Market under the symbol "ETON." However, an active, liquid or orderly trading market in our shares may not develop upon completion of this offering, or if it does develop, it may not be sustained. The lack of an active market may impair your ability to sell your shares at the time you wish to sell them or at a price that you consider reasonable. The lack of an active market may also reduce the fair market value of your shares. An inactive market may also impair our ability to raise capital by selling shares and may impair our ability to acquire other companies by using our shares as consideration.

Future capital raises may dilute our existing stockholders' ownership and/or have other adverse effects on our operations. If we raise additional capital by issuing equity securities, our existing stockholders' percentage ownership will be reduced and these stockholders may experience substantial dilution. If we raise additional funds by issuing debt securities, these debt securities would have rights senior to those of our common stock and the terms of the debt securities issued could impose significant restrictions on our operations, including liens on our assets. If we raise additional funds through collaborations and licensing arrangements, we may be required to relinquish some rights to our technologies or candidate products, or to grant licenses on terms that are not favorable to us.

The market price of our shares may be subject to fluctuation and volatility. You could lose all or part of your investment. The initial public offering price for the shares will be determined by negotiations between us and representatives of the underwriters and may not be indicative of prices that will prevail in the trading market. The price of our shares may decline following this offering. The stock market in general, and early stage public companies in particular, has experienced extreme price and volume fluctuations that have often been unrelated or disproportionate to the operating performance of such companies. The stock market in general has been, and the market price of our shares in particular will likely be, subject to fluctuation, whether due to, or irrespective of, our operating results and financial condition. The market price of our shares on the NASDAQ Capital Market may fluctuate as a result of a number of factors, some of which are beyond our control, including, but not limited to:

- actual or anticipated variations in our and our competitors' results of operations and financial condition;
- market acceptance of our products;
- the mix of products that we sell and related services that we provide;
- changes in earnings estimates or recommendations by securities analysts, if our shares are covered by analysts;
- development of technological innovations or new competitive products by others;
- announcements of technological innovations or new products by us;
- publication of the results of preclinical or clinical trials for our other product candidates;
- failure by us to achieve a publicly announced milestone;
- delays between our expenditures to develop and market new or enhanced products and the generation of sales from those products;
- developments concerning intellectual property rights, including our involvement in litigation brought by or against us;
- regulatory developments and the decisions of regulatory authorities as to the approval or rejection of new or modified products;
- changes in the amounts that we spend to develop, acquire or license new products, technologies or businesses;
- changes in our expenditures to promote our products;
- our sale or proposed sale, or the sale by our significant shareholders, of our shares or other securities in the future;
- changes in key personnel;
- success or failure of our research and development projects or those of our competitors;
- the trading volume of our shares; and
- general economic and market conditions and other factors, including factors unrelated to our operating performance.

These factors and any corresponding price fluctuations may materially and adversely affect the market price of our shares and result in substantial losses being incurred by our investors. In the past, following periods of market volatility, public company shareholders have often instituted securities class action litigation. If we were involved in securities litigation, it could impose a substantial cost upon us and divert the resources and attention of our management from our business.

We are an "emerging growth company" under the JOBS Act of 2012 and we cannot be certain if the reduced disclosure requirements applicable to emerging growth companies will make our common stock less attractive to investors. We are an "emerging growth company," as defined in the Jumpstart Our Business Startups Act of 2012 ("JOBS Act"), and we may take advantage of certain exemptions from various reporting requirements that are applicable to other public companies that are not "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;
- exemptions from the requirements of holding a nonbinding advisory vote on executive compensation and stockholder approval of any golden parachute payments; and
- extended transition periods available for complying with new or revised accounting standards.

We have chosen to "opt out" of the extended transition periods available for complying with new or revised accounting standards, but we intend to take advantage of all of the other benefits available under the JOBS Act, including the exemptions discussed above. We cannot predict if investors will find our common stock less attractive because we may rely on these exemptions. If some investors find our common stock less attractive as a result, there may be a less active trading market for our common stock and our stock price may be more volatile.

We will remain an "emerging growth company" for up to five years, although we will lose that status sooner if our revenues exceed $1.07 billion, if we issue more than $1 billion in non-convertible debt in a three year period, or if the market value of our common stock that is held by non-affiliates exceeds $700 million as of any June 30.

If we fail to maintain an effective system of internal control over financial reporting, we may not be able to accurately report our financial results or prevent fraud. As a result, shareholders could lose confidence in our financial and other public reporting, which would harm our business and the trading price of our common shares. Effective internal controls over financial reporting are necessary for us to provide reliable financial reports and, together with adequate disclosure controls and procedures, are designed to prevent fraud. Any failure to implement required new or improved controls, or difficulties encountered in their implementation could cause us to fail to meet our reporting obligations. In addition, any testing by us conducted in connection with Section 404 of the Sarbanes-Oxley Act, or the subsequent testing by our independent registered public accounting firm when required, may reveal deficiencies in our internal controls over financial reporting that are deemed to be material weaknesses or that may require prospective or retrospective changes to our consolidated financial statements or identify other areas for further attention or improvement. Inferior internal controls could also cause investors to lose confidence in our reported financial information, which could have a negative effect on the trading price of our common shares. There is also a risk that neither we nor our independent registered public accounting firm (when applicable in the future) will be able to conclude within the prescribed timeframe that internal controls over financial reporting is effective as required by Section 404. This could result in an adverse reaction in the financial markets due to a loss of confidence in the reliability of our financial statements.

Our status as an "emerging growth company" under the JOBS Act may make it more difficult to raise capital as and when we need it. Because of the exemptions from various reporting requirements provided to us as an "emerging growth company," we may be less attractive to investors and it may be difficult for us to raise additional capital as and when we need it. Investors may be unable to compare our business with other companies in our industry if they believe that our reporting is not as transparent as other companies in our industry. If we are unable to raise additional capital as and when we need it, our financial condition and results of operations may be materially and adversely affected.

We have not paid dividends in the past and have no immediate plans to pay dividends. We plan to reinvest all of our earnings, to the extent we have earnings, to cover operating costs and otherwise become and remain competitive. We do not plan to pay any cash dividends with respect to our securities in the foreseeable future. We cannot assure you that we would, at any time, generate sufficient surplus cash that would be available for distribution to the holders of our common stock as a dividend. Therefore, you should not expect to receive cash dividends on the common stock we are offering.

If equity research analysts do not publish research or reports about our business or if they issue unfavorable commentary or downgrade our shares, the price of our shares could decline. The trading market for our shares will rely in part on the research and reports that equity research analysts publish about us and our business, if at all. We do not have control over these analysts and we do not have commitments from them to write research reports about us. The price of our shares could decline if no research reports are published about us or our business, or if one or more equity research analysts downgrades our shares or if those analysts issue other unfavorable commentary or cease publishing reports about us or our business.

We will incur significant increased costs as a result of becoming a public company that reports to the Securities and Exchange Commission and our management will be required to devote substantial time to meet compliance obligations. As a public company reporting to the Securities and Exchange Commission, we will incur significant legal, accounting and other expenses that we did not incur as a private company. We will be subject to reporting requirements of the Securities Exchange Act of 1934 and the reporting and governance provisions of the Sarbanes-Oxley Act of 2002 and the Dodd-Frank Wall Street Reform and Protection Act, as well as rules subsequently implemented by the Securities and Exchange Commission, that impose significant requirements on public companies, including requiring establishment and maintenance of effective disclosure and financial controls and changes in corporate governance practices. There are significant corporate governance and reporting provisions in these laws that will increase our legal and financial compliance costs, make some activities more difficult, time-consuming or costly and may also place undue strain on our personnel, systems and resources. Our management and other personnel will need to devote a substantial amount of time to these regulations. In addition, we expect these rules and regulations to make it more difficult and more expensive for us to obtain director and officer liability insurance, and we may be required to accept reduced policy limits and coverage or incur substantially higher costs to obtain the same or similar coverage. As a result, it may be more difficult for us to attract and retain qualified people to serve on our board of directors, our board committees or as executive officers.

Assuming a market for our common stock develops, shares eligible for future sale may adversely affect the market for our common stock. All of our common shares outstanding prior to this offering, including the common shares issuable upon conversion of our convertible preferred stock, are subject to lock-up agreements whereby the holder has agreed not to sell, transfer or pledge, or offering to do any of the same, directly or indirectly, any of our securities for a period of one year following the close of this offering, except for the holders of common shares issuable upon conversion of our preferred stock and the holders of 218,980 shares of our outstanding common stock who have agreed not to sell for 180 days following the close of this offering. Notwithstanding the lock-up agreements, we have agreed to register for resale shares of common stock expected to be issued upon conversion of our preferred stock and shares of common stock underlying warrants. Furthermore, commencing on the 90th day following the close of this offering, certain of our stockholders may be eligible to sell all or some of their shares of common stock by means of ordinary brokerage transactions in the open market pursuant to Rule 144, promulgated under the Securities Act, subject to certain limitations. In general, pursuant to Rule 144, non-affiliate stockholders may sell freely after six months subject only to the current public information requirement (which disappears after one year). Following the 180th day following the close of this offering, certain stockholders will be eligible to begin publicly selling their shares under Rule 144.

Any substantial sale of our common stock pursuant to Rule 144 or pursuant to any resale prospectus (including sales by investors of securities acquired in connection with this offering) may have a material adverse effect on the market price of our common stock.

You will experience immediate dilution in the book value per share of the common stock you purchase. Because the price per share of our common stock being offered is substantially higher than the book value per share of our common stock, you will experience substantial dilution in the net tangible book value of the common stock you purchase in this offering. Based on the offering price of $6.00 per share, if you purchase shares of common stock in this offering, you will experience immediate and substantial dilution of $ per share in the net tangible book value of the common stock at March 31, 2018.

We may be at an increased risk of securities class action litigation. Historically, securities class action litigation has often been brought against a company following a decline in the market price of its securities. This risk is especially relevant for us because biotechnology and pharmaceutical companies have experienced significant stock price volatility in recent years. If we were to be sued, it could result in substantial costs and a diversion of management's attention and resources, which could harm our business.

We have broad discretion in how we use the proceeds of this offering and may not use these proceeds effectively, which could affect our results of operations and cause our stock price to decline. We may invest or spend these proceeds in ways with which you do not agree and in ways that may not yield a return on your investment. Our management will have considerable discretion in the application of the net proceeds of this offering, including for any purpose described in the section of this prospectus entitled "Estimated Use of Proceeds". However, our needs may change as our business and industry evolve and, as a result, the proceeds we receive from this offering may be used in a manner substantially different from our current expectations. We may use the net proceeds for purposes that do not yield a significant return or any return at all for our shareholders. In addition, pending their use, we may invest the net proceeds from this offering in a manner that does not produce income or that loses value. The failure by our management to apply these funds effectively could result in financial losses that could harm our business, cause the price of our common stock to decline and delay the development of our product candidates. You will not have the opportunity as part of your investment decision to assess whether the net proceeds are being used appropriately and, as a result, you will be relying on our management's judgment.

Our charter documents and Delaware law may inhibit a takeover that stockholders consider favorable. Upon the closing of this offering, provisions of our Certificate of Incorporation, or Certificate, and bylaws and applicable provisions of Delaware law may delay or discourage transactions involving an actual or potential change in control or change in our management, including transactions in which stockholders might otherwise receive a premium for their shares, or transactions that our stockholders might otherwise deem to be in their best interests. The provisions in our Certificate and bylaws:

- limit who may call stockholder meetings;
- do not provide for cumulative voting rights; and
- provide that all vacancies may be filled by the affirmative vote of a majority of directors then in office, even if less than a quorum.

In addition, once we become a publicly traded corporation, Section 203 of the Delaware General Corporation Law may limit our ability to engage in any business combination with a person who beneficially owns 15% or more of our outstanding voting stock unless certain conditions are satisfied. This restriction lasts for a period of three years following the share acquisition. These provisions may have the effect of entrenching our management team and may deprive you of the opportunity to sell your shares to potential acquirers at a premium over prevailing prices. This potential inability to obtain a control premium could reduce the price of our common stock.

Ownership portions held by our executives and directors, as well as by our former parent company, Imprimis Pharmaceuticals, Inc., may limit your ability to influence corporate matters. Following this offering, and after giving effect to the conversion of our Series A preferred stock, our directors and executive officers will beneficially own approximately % of our common stock. Additionally, Imprimis Pharmaceuticals, Inc., our former parent company, will hold approximately % of our outstanding common stock. Accordingly, these parties, together, will be able to significantly influence, though not independently determine, the outcome of matters required to be submitted to our shareholders for approval, including decisions relating to the election of our board of directors and the outcome of any proposed merger or consolidation of our company. These interests may not be consistent with those of our other shareholders. In addition, the significant interest held by these parties, and particularly by Imprimis, may discourage third parties from seeking to acquire control of us, which may adversely affect the market price of our shares.

SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

This prospectus, including the sections entitled “Prospectus Summary,” “Risk Factors,” “Use of Proceeds,” “Management’s Discussion and Analysis of Financial Condition and Results of Operations,” and “Our Business,” contains forward-looking statements. The words “believe,” “may,” “will,” “potentially,” “estimate,” “continue,” “anticipate,” “intend,” “could,” “would,” “project,” “plan,” “expect” and similar expressions that convey uncertainty of future events or outcomes are intended to identify forward-looking statements. These forward-looking statements include, but are not limited to, statements concerning the following:

- our future financial and operating results;
- our intentions, expectations and beliefs regarding anticipated growth, market penetration and trends in our business;
- the timing and success of our plan of commercialization;
- our ability to successfully develop and clinically test our product candidates;
- our ability to file for FDA approval of our product candidates through the 505(b)(2) regulatory pathway;
- our ability to obtain FDA approval for any of our product candidates;
- our ability to comply with all U.S. and foreign regulations concerning the development, manufacture and sale of our product candidates;
- the adequacy of the net proceeds of this offering;
- the effects of market conditions on our stock price and operating results;
- our ability to maintain, protect and enhance our intellectual property;
- the effects of increased competition in our market and our ability to compete effectively;
- our plans to use the proceeds from this offering;
- costs associated with initiating and defending intellectual property infringement and other claims;
- the attraction and retention of qualified employees and key personnel;
- future acquisitions of or investments in complementary companies or technologies; and
- our ability to comply with evolving legal standards and regulations, particularly concerning requirements for being a public company.

These forward-looking statements are subject to a number of risks, uncertainties and assumptions, including those described in “Risk Factors” and elsewhere in this prospectus. Moreover, we operate in a very competitive and rapidly changing environment, and new risks emerge from time to time. It is not possible for us to predict all risks, nor can we assess the impact of all factors on our business or the extent to which any factor, or combination of factors, may cause actual results to differ materially from those contained in any forward-looking statements we may make. In light of these risks, uncertainties and assumptions, the forward-looking events and circumstances discussed in this prospectus may not occur and actual results could differ materially and adversely from those anticipated or implied in our forward-looking statements.

You should not rely upon forward-looking statements as predictions of future events. Although we believe that the expectations reflected in our forward-looking statements are reasonable, we cannot guarantee that the future results, levels of activity, performance or events and circumstances described in the forward-looking statements will be achieved or occur. Moreover, neither we nor any other person assumes responsibility for the accuracy and completeness of the forward-looking statements. We undertake no obligation to update publicly any forward-looking statements for any reason after the date of this prospectus to conform these statements to actual results or to changes in our expectations, except as required by law.

You should read this prospectus and the documents that we reference in this prospectus and have filed with the Securities and Exchange Commission as exhibits to the registration statement of which this prospectus is a part with the understanding that our actual future results, levels of activity, performance and events and circumstances may be materially different from what we expect.

OUR BUSINESS

General

Eton Pharmaceuticals, Inc. is a specialty pharmaceutical company focused on developing and commercializing innovative pharmaceutical products utilizing the FDA's 505(b)(2) regulatory pathway. Our business model is to develop proprietary innovative products that fulfill an unmet patient need.

We have established a diversified pipeline of eight product candidates in various stages of development. Our corporate strategy is to pursue what we perceive to be low-risk 505(b)(2) candidates where existing published literature, historical clinical trials, or physician usage has established safety or efficacy of the molecule, thereby reducing the incremental clinical burden required for us to bring the product to patients. We intend to focus on product candidates that are currently unapproved or product candidates that we believe will offer innovative and proprietary functional advantages to currently available alternatives.

We intend to pursue product candidates that require a single small phase III trial, a bio-equivalence trial, or literature-based filings. Prior to initiating significant development activities on a product candidate, we intend to meet with the FDA to establish a defined clinical and regulatory path to approval. We have conducted Pre-IND meetings with the FDA concerning all of our current product candidates, except for ET-103 for which we expect to hold a Pre-IND meeting with the FDA in late 2018.

Market Opportunity

We believe there is a large and unmet market for developing drugs that address the specific needs of patients, physicians, nurses and pharmacists. We intend to focus on product candidates that are liquid in formulation and qualify under the FDA's 505(b)(2) regulatory pathway.

We intend to pursue product opportunities where patient demand is not being met by current FDA-approved pharmaceutical products. This may include products that are being supplied on an unapproved basis, products that are currently being compounded, internationally approved products that are widely used offshore but not approved in the United States, or approved products where we believe we can provide a lower-cost alternative to an existing high-priced branded product. While we may opportunistically pursue 505(b)(2) opportunities across all dosage forms, we are primarily focused on liquid products, including injectables, oral liquids and ophthalmics. According to IQVIA, in 2017, the molecules included in our current drug candidates had total sales of greater than $4.4 billion.

505(b)(2) Pathway. The 505(b)(2) pathway is intended for molecules that have been previously approved by the FDA or have already been proven to be safe and effective. A 505(b)(2) product reformulates the known molecule in a new strength or dosage form. 505(b)(2) products have the advantage of potentially significantly lower development costs and shorter development timelines versus traditional new molecular entities. We expect to utilize the 505(b)(2) pathway for all of our current product candidates, except for EM-100, for which we intend to use the 505(j) pathway, which is typically utilized by generic drug candidates and generally requires only a bioequivalence trial in order to prove safety and efficacy.

A 505(b)(2) NDA is an application that contains full reports of investigations of safety and effectiveness, but where at least some of the information required for approval comes from studies not conducted by or for the applicant. This alternate regulatory pathway enables the applicant to rely, in part, on the FDA's findings of safety and efficacy for an existing product, or published literature, in support of its application. A 505(b)(2) product candidate might rely on the clinical studies or literature of a previously FDA-approved drug, or rely on the literature and physician usage of an FDA-unapproved, or DESI, drug. The clinical requirements for a 505(b)(2) drug candidate can vary widely from product to product and may include new clinical trials, bioequivalence trials, limited safety and efficacy trials, or full Phase I through III trials. Unless the FDA has released a guidance document, the clinical requirement for a new product candidate is typically not known until the drug sponsor has a Pre-IND meeting with the FDA. We believe there is a significant opportunity to pursue liquid or other alternative formulations of off-patent drugs using the 505(b)(2) regulatory pathway.

DESI Program. Upon its enactment in 1938, the FDCA required new drugs to demonstrate that they were safe before they could be marketed. In 1962, the FDCA was amended to require that new drugs demonstrate that they were effective as well as safe. Following the 1962 amendments to the FDCA, the FDA adopted a program called the Drug Efficacy Study Implementation, or DESI, to review the efficacy of drugs approved between 1938 and 1962, and the drugs approved between 1938 and 1962 are commonly referred to as DESI drugs. DESI drugs were allowed to remain on the market until they were re-reviewed as long as they weren't substantially changed. The DESI program removed many products that were deemed to not be effective, but there was no comprehensive list of drugs approved and marketed at the time and not all drugs were re-reviewed. As a result, many DESI products remained marketed without a formal approval for effectiveness. While we believe there is a significant opportunity to obtain FDA approval of unapproved DESI drugs, and a few of our product candidates are based on molecules that are the API in DESI drugs, we have no plans at this time to pursue the DESI pathway for the FDA approval of any of our product candidates.

Goals and Strengths

Our goal is to become a leading specialty pharmaceutical company through the introduction of innovative medicines that are affordable and available to all patients. We believe our competitive strengths include our:

- unique knowledge of the industry, including our ability to identify product opportunities;
- management's regulatory and development experience, particularly within the 505(b)(2) pathway;
- our portfolio of attractive assets that we believe will enable us to compete effectively in the market;
- management's experience in business development, M&A, licensing activities and broad industry connections;
- differentiated business model as compared to generic and branded specialty pharmaceutical drug companies, utilizing the 505(b)(2) pathway; and
- patent rights, know-how, exclusive API and manufacturing relationships.

Strategy

We intend to grow our business through opportunistic development and licensing of 505(b)(2) products. Our primary criteria for product candidate are:

- *Low regulatory risk*: We focus on molecules where there is significant existing clinical data or literature to show that the product is safe and effective, creating a higher probability of clinical and regulatory success. Our product candidates do not typically require extensive clinical trials.
- *Low commercial risk*: We select product candidates where patient demand is apparent, providing a high-degree of confidence in commercial success. We pursue products that are currently compounded, sold as unapproved products, or where we are providing a lower-cost alternative to high-price branded products with strong existing demand. Our candidates are typically well-known molecules that require minimal sales force promotion, so we able to pursue opportunities across most therapeutic areas.
- *Short development timelines*: We believe that the product candidates internally developed by us typically have a path to approval of approximately 36 months from the time of product initiation. For product opportunities acquired or licensed by us, we primarily focus on opportunities where the NDA has been filed, or is near filing, and product could be less than 18 months away from the commercial market.
- *Relatively low cost*: We prefer to develop numerous lower-cost projects, rather than a single high-cost candidate. We do not believe that development costs are necessarily correlated with the earnings potential of products.
- *Protection from competition*. We expect many products in our portfolio to receive Orange-book listed patents or FDA-granted exclusivity. We have also entered into exclusive agreements with manufacturing partners and API suppliers on most of our products.

We intend to aggressively pursue value-creating business development opportunities, including the licensing or acquisition of individual development-stage or commercial products, as well as the acquisition of companies or subsidiaries of operating companies. Our management team has a track record of successfully growing businesses through value-creating business development activities and has completed numerous transactions during their careers. At any particular time, the company is typically evaluating multiple acquisition or licensing opportunities of various sizes. We believe management's business development experience and broad industry contacts provide us with a competitive advantage, and as a public company we believe we will have greater access to capital with which to pursue transactions of all sizes.

Products

We source products both internally, by contracting with third-parties for development of our candidates on a fee-for-service basis, and externally, through the licensing or acquisition of existing development or commercial products. For products that we have licensed or acquired from third parties, we typically are required to pay licensing fees, milestone payments, and profit share/royalty payments to our partner.

We expect to continue growing our pipeline of product candidates through value-creating business development activities, and we are in active discussions with the FDA on additional internally developed products that may be added to our pipeline if we elect to proceed with the opportunity after the outcome of our pre-IND meeting with the FDA. We currently we have eight product candidates in various stages of development, as follows:

Product	Dosage Form	Estimated Filing Year	IQVIA Market Size	Source of Product
DS-300	Injectable	Filed	up to $25 million	Licensed
EM-100	Ophthalmic	Filed	$25-50 million	Licensed
ET-103	Oral Liquid	2019	$1 billion+	Licensed
DS-100	Injectable	2019	up to $25 million	Licensed
DS-200	Injectable	2019	up to $25 million	Acquired
ET-101	Oral Liquid	2020	$500 million - $1 billion	Internal Development
ET-102	Oral Liquid	2020	$50-100 million	Internal Development
CT-100	Injectable	TBD	$500 million - $1 billion	Acquired

We believe market data provide by IQVIA, an independent pharmaceutical data company, provides a relative indication of the market potential of our products. However, our products are typically not exactly equivalent to currently marketed products, so the IQVIA market size may not always be a strong indicator of our products' sales potential. For some products, we believe our product provides an advantage over the currently marketed product and can earn sales above the IQVIA market size, on other products we may expect to receive only a percentage of the current IQVIA market.

DS-300. DS-300 is a patent-pending injectable nutrition product candidate. The product's NDA was filed with the FDA in January 2018. DS-300 has been granted Fast Track Designation by the FDA. and is being reviewed by the FDA as a rolling review, meaning we are allowed to submit sections of our NDA as they are completed rather than waiting for completion of the entire NDA. Currently there are no approved versions of DS-300's molecule in injectable form. The market is currently being supplied by an unapproved product. Upon approval of DS-300, we would expect the marketed unapproved product to exit the market.

We acquired the exclusive rights to develop, manufacture and sell the DS-300 product in the U.S. pursuant to a Sales and Marketing Agreement dated November 17, 2017 with an unaffiliated third party. Pursuant to the agreement, the licensor is responsible for obtaining FDA approval, at its expense, and we are responsible for commercializing the product in the U.S., at our expense. We will pay the licensor the first $1 million of net profit from the sale of the DS-300, generally defined as gross profit less certain fees and costs incurred by us, and thereafter we will pay 50% of the net profit to the licensor and its designees for the term of the agreement. The agreement has a term of ten years from the date of the first commercial sale of the DS-300, subject to one five year extension at our option. The licensor may terminate the agreement if we choose not to launch the DS-300, for commercial reasons only, within three months after FDA approval or if during the first calendar year following the first commercial sale of the DS-300 net sales of the product do not exceed $1 million. The agreement also contains customary representations, warranties, covenants and indemnities by the parties.

EM-100. EM-100 is an ophthalmic product indicated for the treatment of allergic conjunctivitis. EM-100 is a unique formulation of an already FDA-approved molecule that is widely used for allergic conjunctivitis. We believe our unique formulation will provide an increased comfort profile to patients. Our development partner previously filed an ANDA for EM-100 and in response to a complete response letter, or CRL, from the FDA, we ran a bioequivalence trial in April 2018. The bioequivalence trial successfully showed non-inferiority to the comparable product and statistically significant superiority to the placebo. The FDA's request for a bioequivalence trial was the FDA's only material comment in the CRL. We expect to respond to the CRL later in 2018. We expect to utilize the 505(j) pathway for FDA approval of EM-100. The 505(j) pathway is typically utilized for generic drug candidates. We do not anticipate utilizing the 505(j) pathway for any other of our current product candidates.

We acquired the exclusive rights to develop, manufacture and sell the EM-100 product in the U.S. pursuant to a Sales and Marketing Agreement dated August 11, 2017 between us and Eyemax LLC, an entity affiliated with our Chief Executive Officer. We also hold a right of first refusal to obtain the exclusive license rights for geographic areas outside of the U.S. Pursuant to the agreement, we are responsible for all costs of testing and FDA approval of the product, other than the FDA filing fee which will be paid by the licensor. We are also responsible for commercializing the product in the U.S. at our expense. The licensor shall own of all product registration and regulatory filings, all of which shall be subject to our exclusive license. We paid the licensor $250,000 upon execution of the agreement and will pay the licensor $250,000 upon FDA approval and $500,000 upon the first commercial sale of the product. We will also pay the licensor a royalty of 10% on the net sales of all products. The license agreement is for an initial term of ten years from the date of the agreement, subject to successive two year renewals unless we elect to terminate the agreement. The licensor may terminate the agreement if we fail to file for FDA approval by August 15, 2019 or if, in any full calendar year following the first commercial sale of the product, the licensor fails to receive royalties of at least $100,000. The agreement also contains customary representations, warranties, covenants and indemnities by the parties.

ET-103. ET-103 is an oral liquid product candidate that is a new dosage form of a molecule that is currently approved in oral solid form. We expect to attend a Pre-IND meeting with the FDA in late 2018, at which time we expect the FDA will require us to conduct a bioequivalence trial as the principal means of proving safety and efficacy. If the trial is successful, we would anticipate submitting an NDA in 2019. We expect to submit a patent application on ET-103 in the near future.

We acquired the exclusive license to develop, manufacture and sell ET-103 in the U.S. pursuant to an Exclusive License and Supply Agreement dated August 3, 2018 between us and Liqmeds Worldwide Limited, an unaffiliated entity. Pursuant to the agreement, we will be responsible for, and shall own, all regulatory filings and approvals at our expense, provided that we shall have the right to recoup 35% of any regulatory filing fees from the initial profits from the sale of ET-103 and, provided further, the licensor shall be responsible for any bioequivalence study and shall be responsible for 60% of the costs of such study. An affiliate of the licensor shall manufacture the ET-103 and sell it to us at its cost. We paid the licensor $350,000 upon execution of the agreement and will pay the licensor $1,500,000 upon the FDA's acceptance of an NDA for review, $1,000,000 upon FDA approval, $1,500,000 upon issuance of patent covering ET-103 listed in the FDA's Orange Book and $500,000 in the event of product sales in excess of $10,000,000 in any calendar year. The license agreement is for an initial term of ten years from the date of the first commercial sale of the product, subject to two year renewals unless either party elects to terminate no less than 12 months prior to the then current term. The agreement also contains customary representations, warranties, covenants and indemnities by the parties.

DS-100. DS-100 is an injectable product candidate for use in pain management. The DS-100 will target a new indication for an already FDA-approved injectable product. Our product is the same formula as the currently approved product, which we believe will reduce the clinical requirements needed to bring our product to market. Following our Pre-IND meeting with the FDA, we are currently in discussions with the FDA regarding the clinical requirements for DS-100. We expect either a literature-based filing or a small clinical trial as the principal means of proving safety and efficacy. In either event, we expect to submit an NDA for DS-100 in 2019.

We acquired the exclusive rights to develop, manufacture and sell the DS-100 product in the U.S. pursuant to an Exclusive Development and Supply Agreement dated July 9, 2017 between us and Andersen Pharma, LLC, an entity affiliated with our Chief Executive Officer. We also hold an option to purchase the DS-100 product and all related intellectual property and government approvals. Pursuant to the agreement, the licensor is responsible for obtaining FDA approval at its expense and manufacturing the product for sale to us at its cost, however we are responsible for the advancement of the FDA submission fees, which we have the right to recoup from the initial profits from product sales prior to any profit split. We are responsible for commercializing the product in the U.S. at our expense. We paid the licensor $750,000 upon execution of the agreement and will pay the licensor $750,000 upon successful completion of a registration batch of product, $750,000 upon submission of an NDA and $750,000 upon FDA approval. We will also pay the licensor 50% of the net profit from the sale of the product. The license agreement is for an initial term of five years from the first commercial sale of the product, subject to successive two year renewals unless either party elects to terminate the agreement. The agreement also contains customary representations, warranties, covenants and indemnities by the parties.

DS-200. DS-200 is an injectable parenteral nutrition product candidate. Currently there are no approved versions of DS-200's molecule in injectable form. The market is currently being supplied by an unapproved product. Upon approval of DS-200, we would expect the marketed unapproved product to exit the market. Based on a Pre-IND meeting with the FDA, we expect DS-200 to be a literature-based filing as the principal means of proving safety and efficacy. We expect to submit to the FDA an NDA for DS-200 in 2019.

We acquired the DS-200 product and all related intellectual property and government approvals pursuant to an Asset Purchase Agreement dated June 23, 2017 between us and Selenix LLC, an entity affiliated with our Chief Executive Officer. Pursuant to the agreement, we paid the seller $1.5 million and have agreed to pay $1.5 million upon submission of the NDA and $1 million upon FDA approval. We have also agreed to pay the seller 50% of the net profit from the sale of the product for the first ten years following the date of the agreement.

ET-101. ET-101 is an innovative oral liquid product for use in seizure control. The active ingredient in ET-101 is FDA-approved in an oral solid dosage form but is not approved in oral liquid form and is frequently compounded into a liquid by pharmacists. Based on a Pre-IND meeting with the FDA, we expect to conduct a bioequivalence trial for ET-101 as the principal means of proving safety and efficacy. We anticipate submitting a patent on our unique formulation and expect to file the NDA for ET-101 in 2020.

ET-102. ET-102 is an innovative oral liquid product for use as a muscle relaxant. The active ingredient in ET-102 is FDA-approved in an oral solid dosage form but is not approved in an oral liquid form and is frequently compounded into a liquid by pharmacists. Based on a Pre-IND meeting with the FDA, we expect to conduct a bioequivalence trial for ET-102 as the principal means of proving safety and efficacy. We anticipate submitting a patent on our unique formulation and expect to file the NDA for ET-102 in 2020.

CT-100. CT-100 is our patent-pending synthetic corticotropin therapeutic candidate that mimics the amino acid chain of H.P. Acthar Gel®. Our patent-pending technology stabilizes a known unstable molecule of the approved drug. Our synthetic corticotropin is a 39-chain amino acid peptide synthetic adrenocorticotrophic hormone, non-gelatin and preservative-free, and provides for synthetic corticotropin. We have held two written response meetings with the FDA regarding CT-100 and we are currently working with a clinical research organization to analyze the cost and protocol for CT-100's clinical program based on the FDA's feedback. If the project is determined to be cost prohibitive for us, we may seek to partner or license the product to a larger or more well-capitalized company.

We acquired from Imprimis all of its rights to the CT-100 product and all related intellectual property and know-how and trade secrets specific to the product pursuant to an Asset Purchase and License Agreement dated May 9, 2017. Pursuant to the agreement, we also obtained from Imprimis a non-exclusive license to certain know-how and trade secrets related, but not specific, to the CT-100 product. In addition, we licensed back to Imprimis a non-exclusive, perpetual, non-transferable and royalty free license to use, manufacture and sell any product incorporating the intellectual property acquired from Imprimis, other than products incorporating the synthetic corticotropin. The agreement requires us to pay Imprimis a $50,000 milestone fee upon our initial patent issuance for the product and a three percent royalty fee on net sales of the product distributed and marketed by us or our licensees, until such time as the product is covered by an issued patent, at which time the royalty will increase to six percent on net sales. The agreement also contains customary representations, warranties, covenants and indemnities by the parties.

Research and Development

We are focused on the opportunistic development of 505(b)(2) products. We believe that our success depends in part on our ability to:

- develop product candidates internally in a relatively short timeline, approximately 36 months from the time of product initiation to the time of regulatory approval; and
- develop numerous lower-cost projects, rather than a single high-cost candidate.

Set forth below is our research and development spending for our current product candidates. We currently have four employees that support our overall product development and we also have facility and operating costs for a laboratory that will support product development. We do not track internal costs by product for our employees and laboratory expenses and they are listed as indirect expenses in the table below (amounts are in thousands).

Product	Period From April 27, 2017 (Inception) Through December 31, 2017	Three Months Ended March 31, 2018
CT-100	93	53
DS-100	750	-
DS-200	1,686	190
DS-300	402	65
EM-100	470	606
Other products	132	104
Indirect expenses	397	256
TOTAL	**$ 3,930**	**$ 1,274**

Sales and Marketing

We intend to establish an internal sales infrastructure in 2018. We are in the process of registering for licenses to distribute pharmaceuticals in all required states and territories of the United States. We anticipate being fully registered with all states in advance of launching DS-300 under our own label. DS-300 will be primarily sold through the hospital channel.

We may selectively out-license or seek a marketing partner on a product by product basis for products that we deem to require large dedicated sales forces, or for any products where we find it financial or strategically advantageous. We have engaged an experienced third-party logistics company specializing in pharmaceuticals to manage inventory, logistics, and sales reconciliation for our commercial products.

Manufacturing and Suppliers

We rely on third party contract manufacturing organizations, or CMO, to manufacture our products. All our manufacturing partners are based in the United States or Europe. We seek to work with CMOs that have a long history of quality and FDA compliance. All products are manufactured in compliance with cGMP, and our internal quality system requires us to enter quality agreements with and audit all of our manufacturers. Our choice to rely on external manufacturers significantly reduces the amount of capital invested in our business and allows us the flexibility to pursue a broad range of opportunities beyond the specific capabilities of a single facility.

Intellectual Property

Our policy is to seek to protect our proprietary position by, among other methods, filing U.S. and foreign patent applications related to our proprietary technology, inventions and improvements that are important to the development of our business. We also rely on our trade secrets, know-how and continuing technological innovation to develop and maintain our proprietary position. We vigorously defend our intellectual property to preserve our rights and gain the benefit of our technological investments. Our business is not dependent, however, upon any single patent, trademark or contract.

We own one patent application related to our CT-100 (Synthetic Corticotropin) product candidate. The patent application was submitted on June 13, 2017 and relates to a drug to treat multiple sclerosis, autoimmune diseases, and rheumatic disorders including infantile spasms, Addison's disease, Nelson's, Cushing's and West syndromes. If granted, this application would have an approximate expiration of May 2037, in all jurisdictions where the cases are pending. The claimed subject matter in the patent application includes claims to compositions themselves and treatment methods using known compounds and formulations and dosage types.

We also hold the exclusive rights to a provisional patent filed in the U.S. with regard to our DS-300 product candidate. The provisional patent application was submitted on January 26, 2018 and will expire on January 25, 2019.

We intend to seek patent protection on our internally developed products as circumstances warrant.

We have applied for trademark registration of the marks "Eton" and "Eton Pharmaceuticals" with the US Patent and Trademark Office.

Government Regulations and Funding

Pharmaceutical companies are subject to extensive regulation by foreign, federal, state and local agencies, such as the U.S. FDA, and various European regulatory authorities. The manufacture, distribution, marketing and sale of pharmaceutical products are subject to government regulation in the U.S. and various foreign countries. Additionally, in the U.S., we must follow rules and regulations established by the FDA requiring the presentation of data indicating that our products are safe and efficacious and are manufactured in accordance with cGMP regulations. If we do not comply with applicable requirements, we may be fined, the government may refuse to approve our marketing applications or allow us to manufacture or market our products, and we may be criminally prosecuted. We, our manufacturers and clinical research organizations may also be subject to regulations under other foreign, federal, state and local laws, including, but not limited to, the U.S. Occupational Safety and Health Act, the Resource Conservation and Recovery Act, the Clean Air Act and import, export and customs regulations as well as the laws and regulations of other countries. The U.S. government has increased its enforcement activity regarding illegal marketing practices domestically and internationally. As a result, pharmaceutical companies must ensure their compliance with the Foreign Corrupt Practices Act and federal healthcare fraud and abuse laws, including the False Claims Act.

These regulatory requirements impact our operations and differ from one country to another, so that securing the applicable regulatory approvals of one country does not imply the approval of another country. The approval procedures involve high costs and are manpower intensive, usually extend over many years and require highly skilled and professional resources.

FDA Market Approval Process

The steps usually required to be taken before a new drug may be marketed in the U.S. generally include:

- completion of pre-clinical laboratory and animal testing;
- completion of required chemistry, manufacturing and controls testing;
- the submission to the FDA of an investigational new drug, or IND, the application for which must be evaluated and found acceptable by the FDA before human clinical trials may commence;

- performance of adequate and well-controlled human clinical trials to establish the safety, pharmacokinetics and efficacy of the proposed drug for its intended use;

- submission and approval of an NDA; and

- agreement with FDA of the language on the package insert.

Clinical studies are conducted under protocols detailing, among other things, the objectives of the study, what types of patients may enter the study, schedules of tests and procedures, drugs, dosages, and length of study, as well as the parameters to be used in monitoring safety, and the efficacy criteria to be evaluated. A protocol for each clinical study and any subsequent protocol amendments must be submitted to the FDA as part of the IND process.

Clinical trials are usually conducted in three phases. Phase 1 clinical trials are normally conducted in small groups of healthy volunteers to assess safety of various dosing regimens and pharmacokinetics. After a safe dose has been established, in Phase 2 clinical trials the drug is administered to small populations of sick patients to look for initial signs of efficacy in treating the targeted disease or condition and to continue to assess safety. In the case of vaccines, the participants are healthy and the signs of efficacy can be obtained in early Phase 1, therefore this Phase is defined as Phase 1/2. Phase 3 clinical trials are usually multi-center, double-blind controlled trials in hundreds or even thousands of subjects at various sites to assess as fully as possible both the safety and effectiveness of the drug.

Clinical trials must be conducted in accordance with the FDA's good clinical practices, or GCP, requirements. The FDA may order the temporary or permanent discontinuation of a clinical study at any time or impose other sanctions if it believes that the clinical study is not being conducted in accordance with FDA requirements or that the participants are being exposed to an unacceptable health risk. An institutional review board, or IRB, generally must approve the clinical trial design and patient informed consent at study sites that the IRB oversees and also may halt a study, either temporarily or permanently, for failure to comply with the IRB's requirements, or may impose other conditions. Additionally, some clinical studies are overseen by an independent group of qualified experts organized by the clinical study sponsor, known as a data safety monitoring board or committee. This group recommends whether or not a trial may move forward at designated check points based on access to certain data from the study. The clinical study sponsor may also suspend or terminate a clinical trial based on evolving business objectives and/or competitive climate.

As a product candidate moves through the clinical testing phases, manufacturing processes are further defined, refined, controlled and validated. The level of control and validation required by the FDA increases as clinical studies progress. We and the third-party manufacturers on which we rely for the manufacture of our product candidates and their respective components (including the API) are subject to requirements that drugs be manufactured, packaged and labeled in conformity with cGMP. To comply with cGMP requirements, manufacturers must continue to spend time, money and effort to meet requirements relating to personnel, facilities, equipment, production and process, labeling and packaging, quality control, recordkeeping and other requirements.

Assuming completion of all required testing in accordance with all applicable regulatory requirements, detailed information on the product candidate is submitted to the FDA in the form of an NDA, requesting approval to market the product for one or more indications, together with payment of a user fee, unless waived. An NDA includes all relevant data available from pertinent nonclinical and clinical studies, including negative or ambiguous results as well as positive findings, together with detailed information on the chemistry, manufacture, controls and proposed labeling, among other things. To support marketing approval, the data submitted must be sufficient in quality and quantity to establish the safety and efficacy of the product candidate for its intended use to the satisfaction of the FDA.

If an NDA submission is accepted for filing, the FDA begins an in-depth review of the NDA. Under the Prescription Drug User Fee Act, or PDUFA, the FDA's goal is to complete its initial review and respond to the applicant within ten months of submission, unless the application relates to an unmet medical need, or is for a serious or life-threatening indication, in which case the goal may be within six months of NDA submission. However, PDUFA goal dates are not legal mandates and the FDA response often occurs several months beyond the original PDUFA goal date. Further, the review process and the target response date under PDUFA may be extended if the FDA requests or the NDA sponsor otherwise provides additional information or clarification regarding information already provided in the NDA. The NDA review process can, accordingly, be very lengthy. During its review of an NDA, the FDA may refer the application to an advisory committee for review, evaluation and recommendation as to whether the application should be approved. The FDA is not bound by the recommendation of an advisory committee, but it typically follows such recommendations. Data from clinical studies are not always conclusive and the FDA and/or any advisory committee it appoints may interpret data differently than the applicant.

After the FDA evaluates the NDA and inspects manufacturing facilities where the drug product and/or its API will be produced, it will either approve commercial marketing of the drug product with prescribing information for specific indications or issue a complete response letter indicating that the application is not ready for approval and stating the conditions that must be met in order to secure approval of the NDA. If the complete response letter requires additional data and the applicant subsequently submits that data, the FDA nevertheless may ultimately decide that the NDA does not satisfy its criteria for approval. The FDA could also approve the NDA with a Risk Evaluation and Mitigation Strategies, or REMS, plan to mitigate risks, which could include medication guides, physician communication plans, or elements to assure safe use, such as restricted distribution methods, patient registries and other risk minimization tools. The FDA also may condition approval on, among other things, changes to proposed labeling, development of adequate controls and specifications, or a commitment to conduct post-marketing testing. Such post-marketing testing may include Phase IV clinical trials and surveillance to further assess and monitor the product's safety and efficacy after approval. Regulatory approval of products for serious or life-threatening indications may require that participants in clinical studies be followed for long periods to determine the overall survival benefit of the drug.

If the FDA approves one of our product candidates, we will be required to comply with a number of post-approval regulatory requirements. We would be required to report, among other things, certain adverse reactions and production problems to the FDA, provide updated safety and efficacy information and comply with requirements concerning advertising and promotional labeling for any of our products. Also, quality control and manufacturing procedures must continue to conform to cGMP after approval, and the FDA periodically inspects manufacturing facilities to assess compliance with cGMP, which imposes extensive procedural, substantive and record keeping requirements. If we seek to make certain changes to an approved product, such as certain manufacturing changes, we will need FDA review and approval before the change can be implemented. For example, if we change the manufacturer of a product or our API, the FDA may require stability or other data from the new manufacturer, and such data will take time and are costly to generate, and the delay associated with generating these data may cause interruptions in our ability to meet commercial demand, if any. While physicians may use products for indications that have not been approved by the FDA, we may not label or promote the product for an indication that has not been approved. Securing FDA approval for new indications is similar to the process for approval of the original indication and requires, among other things, submitting data from adequate and well-controlled studies that demonstrate the product's safety and efficacy in the new indication. Even if such studies are conducted, the FDA may not approve any change in a timely fashion, or at all.

The FDA may also require post-marketing testing, or Phase 4 testing, as well as risk minimization action plans and surveillance to monitor the effects of an approved product or place conditions or an approval that could otherwise restrict the distribution or use of the product.

Section 505(b)(2) New Drug Applications

We intend to submit applications for product candidates via the 505(b)(2) regulatory pathway. As an alternate path for FDA approval of new indications or new formulations of previously-approved products, a company may file a Section 505(b)(2) NDA, instead of a "stand-alone" or "full" NDA. Section 505(b)(2) of the FDCA, was enacted as part of the Drug Price Competition and Patent Term Restoration Act of 1984, otherwise known as the Hatch-Waxman Amendments. 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. Some examples of products that may be allowed to follow a 505(b)(2) path to approval are drugs that have a new dosage form, strength, route of administration, formulation or indication.

The Hatch-Waxman Amendments permit the applicant to rely upon certain published nonclinical or clinical studies conducted for an approved product or the FDA's conclusions from prior review of such studies. The FDA may require companies to perform additional studies or measurements to support any changes from the approved product. The FDA may then approve the new product for all or some of the labeled indications for which the reference product has been approved, as well as for any new indication supported by the Section 505(b)(2) application. While references to nonclinical and clinical data not generated by the applicant or for which the applicant does not have a right of reference are allowed, all development, process, stability, qualification and validation data related to the manufacturing and quality of the new product must be included in an NDA submitted under Section 505(b)(2).

To the extent that the Section 505(b)(2) applicant is relying on the FDA's conclusions regarding studies conducted for an already approved product, the applicant is required to certify to the FDA concerning any patents listed for the approved product in the FDA's Approved Drug Products with Therapeutic Equivalence Evaluations, or Orange Book. Specifically, the applicant must certify that: (i) the required patent information has not been filed; (ii) the listed patent has expired; (iii) the listed patent has not expired, but will expire on a particular date and approval is sought after patent expiration; or (iv) the listed patent is invalid or will not be infringed by the new product. The Section 505(b)(2) application also will not be approved until any non-patent exclusivity, such as exclusivity for obtaining approval of a new chemical entity, listed in the Orange Book for the reference product has expired. If the Orange Book certifications outlined above are not accomplished, the Section 505(b)(2) applicant may invest a significant amount of time and expense in the development of its products only to be subject to significant delay and patent litigation before its products may be commercialized.

DESI Program

Upon its enactment in 1938, the FDCA required new drugs to demonstrate that they were safe before they could be marketed. In 1962, the FDCA was amended to require that new drugs demonstrate that they were effective as well as safe. Following the 1962 amendments to the FDCA, the FDA adopted a program called the Drug Efficacy Study Implementation, or DESI, to review the efficacy of drugs approved between 1938 and 1962, and the drugs approved between 1938 and 1962 are commonly referred to as DESI drugs. DESI drugs were allowed to remain on the market until they were re-reviewed as long as they weren't substantially changed. The DESI program removed many products that were deemed to not be effective, but there was no comprehensive list of drugs approved and marketed at the time and not all drugs were re-reviewed. As a result, many DESI products remained marketed without a formal approval for effectiveness.

Orphan Drugs

Under the Orphan Drug Act, the FDA may grant orphan designation to a drug intended to treat a rare disease or condition affecting fewer than 200,000 individuals in the United States, or in other limited cases. Orphan drug designation (ODD) provides for seven years exclusivity, independent of patent protection, to the company with ODD that brings a particular product to market. In addition, companies developing orphan drugs are eligible for certain incentives, including tax credits for qualified clinical testing. In addition, an NDA for a product that has received orphan drug designation is not subject to a prescription drug user fee unless the application includes an indication other than the rare disease or condition for which the drug was designated.

To gain exclusivity, if a product that has orphan drug designation subsequently receives the first FDA approval for the disease or condition for which it has such designation, the product is entitled to the orphan drug exclusivity, which means that the FDA may not approve any other applications to market the same active moiety for the same indication for seven years, except in limited circumstances, such as another drug's showing of clinical superiority over the drug with orphan exclusivity. Competitors, however, may receive approval of different active moieties for the same indication or obtain approval for the same active moiety for a different indication. In addition, doctors may prescribe products for off-label uses and undermine our exclusivity. Orphan drug exclusivity could block the approval of one of our products for seven years if a competitor obtains approval for the same active moiety for the same indication before we do, unless we are able to demonstrate that our product is clinically superior.

Continuing Regulation

After a drug is approved for marketing and enters the marketplace, numerous regulatory requirements continue to apply. These include, but are not limited to:

- the FDA's cGMP regulations require manufacturers, including third party manufacturers, to follow stringent requirements for the methods, facilities and controls used in manufacturing, processing and packing of a drug product;

- labeling regulations and the FDA prohibitions against the promotion of drugs for unapproved uses (known as off-label uses), as well as requirements to provide adequate information on both risks and benefits during promotion of the drug;

- approval of product modifications or use of a drug for an indication other than approved in an NDA;

- adverse drug experience regulations, which require us to report information on adverse events during pre-market testing;

- post-market testing and surveillance requirements, including Phase 4 trials, when necessary to protect the public health or to provide additional safety and effectiveness data for the drug; and

- the FDA's recall authority, whereby it can ask, or under certain conditions order, drug manufacturers to recall from the market a product that is in violation of governing laws and regulation. After a drug receives approval, any modification in conditions of use, active ingredient(s), route of administration, dosage form, strength or bioavailability, will require a new approval, for which it may be possible to submit a 505(b)(2), accompanied by additional clinical data necessary to demonstrate the safety and effectiveness of the product with the proposed changes. Additional clinical studies may be required for proposed changes.

Other U.S. Healthcare Laws and Compliance Requirements

For products distributed in the United States, we will also be subject to additional healthcare regulation and enforcement by the federal government and the states in which we conduct our business. Applicable federal and state healthcare laws and regulations include the following:

- The federal healthcare anti-kickback statute prohibits, among other things, persons from knowingly and willfully soliciting, offering, receiving, or providing remuneration, directly or indirectly, in cash or in kind, to induce or reward either the referral of an individual for, or the purchase, order, or recommendation of, any good or service, for which payment may be made under federal healthcare programs such as Medicare and Medicaid;

- The Ethics in Patient Referrals Act, commonly referred to as the Stark Law, and its corresponding regulations, prohibit physicians from referring patients for designated health services (including outpatient drugs) reimbursed under the Medicare or Medicaid programs to entities with which the physicians or their immediate family members have a financial relationship or an ownership interest, subject to narrow regulatory exceptions, and prohibits those entities from submitting claims to Medicare or Medicaid for payment of items or services provided to a referred beneficiary;

- The federal False Claims Act imposes criminal and civil penalties, including civil whistleblower or qui tam actions, against individuals or entities for knowingly presenting, or causing to be presented, to the federal government claims for payment that are false or fraudulent or making a false statement to avoid, decrease, or conceal an obligation to pay money to the federal government;

- Health Insurance Portability and Accountability Act of 1996, imposes criminal and civil liability for executing a scheme to defraud any healthcare benefit program and also imposes obligations, including mandatory contractual terms, with respect to safeguarding the privacy, security and transmission of individually identifiable health information. This statute also prohibits knowingly and willfully falsifying, concealing or covering up a material fact or making any materially false statement in connection with the delivery of or payment for healthcare benefits, items, or services; and

- Analogous state laws and regulations, such as state anti-kickback and false claims laws, may apply to sales or marketing arrangements and claims involving healthcare items or services reimbursed by non-governmental third-party payors, including private insurers, and some state laws require pharmaceutical companies to comply with the pharmaceutical industry's voluntary compliance guidelines and the relevant compliance guidance promulgated by the federal government.

Reimbursement

Sales of our products in the United States may depend, in part, on the extent to which the costs of the products will be covered by third-party payers, such as government health programs, commercial insurance and managed health care organizations. These third-party payers are increasingly challenging the prices charged for medical products and services. Additionally, the containment of health care costs has become a priority of federal and state governments, and the prices of drugs have been a focus in this effort. The United States government, state legislatures and foreign governments have shown significant interest in implementing cost-containment programs, including price controls, restrictions on reimbursement and requirements for substitution of generic products. Adoption of price controls and cost-containment measures, and adoption of more restrictive policies in jurisdictions with existing controls and measures, could further limit our net revenue and results. If these third-party payers do not consider our products to be cost-effective compared to other available therapies, they may not cover our products after approval as a benefit under their plans or, if they do, the level of payment may not be sufficient to allow us to sell our products on a profitable basis.

The Medicare Prescription Drug, Improvement, and Modernization Act of 2003, (the "MMA"), imposed new requirements for the distribution and pricing of prescription drugs for Medicare beneficiaries and included a major expansion of the prescription drug benefit under Medicare Part D. Under Part D, Medicare beneficiaries may enroll in prescription drug plans offered by private entities which will provide coverage of outpatient prescription drugs. Part D plans include both stand-alone prescription drug benefit plans and prescription drug coverage as a supplement to Medicare Advantage plans. Unlike Medicare Parts A and B, Part D coverage is not standardized. Part D prescription drug plan sponsors are not required to pay for all covered Part D drugs, and each drug plan can develop its own drug formulary that identifies which drugs it will cover and at what tier or level. However, Part D prescription drug formularies must include drugs within each therapeutic category and class of covered Part D drugs, though not necessarily all the drugs in each category or class. Any formulary used by a Part D prescription drug plan must be developed and reviewed by a pharmacy and therapeutic committee. Government payment for some of the costs of prescription drugs may increase demand for products for which we receive marketing approval. However, any negotiated prices for our products covered by a Part D prescription drug plan will likely be lower than the prices we might otherwise obtain. Moreover, while the MMA applies only to drug benefits for Medicare beneficiaries, private payers often follow Medicare coverage policy and payment limitations in setting their own payment rates. Any reduction in payment that results from the MMA may result in a similar reduction in payments from non-governmental payers.

On February 17, 2009, the American Recovery and Reinvestment Act of 2009 was signed into law. This law provides funding for the federal government to compare the effectiveness of different treatments for the same illness. A plan for the research will be developed by the Department of Health and Human Services, the Agency for Healthcare Research and Quality and the National Institutes of Health, and periodic reports on the status of the research and related expenditures will be made to Congress. Although the results of the comparative effectiveness studies are not intended to mandate coverage policies for public or private payers, it is not clear how such a result could be avoided and what if any effect the research will have on the sales of our product candidates, if any such product or the condition that it is intended to treat is the subject of a study. It is also possible that comparative effectiveness research demonstrating benefits in a competitor's product could adversely affect the sales of our product candidates. Decreases in third-party reimbursement for our products or a decision by a third-party payer to not cover our products could reduce physician usage of the products and have a material adverse effect on our sales, results of operations and financial condition.

Employees

We currently have nine full-time employees, four of whom are engaged in research and development activities and five are engaged in general corporate and strategy roles. We periodically utilize outside consultants on an as-needed basis, including medical consultants. We anticipate hiring additional employees in 2018.

Property

Our executive office is located in a 5,507 square foot facility in Deer Park, Illinois. The office is occupied pursuant to a lease expiring in March 2021 at a monthly lease rate of $6,654, subject to a 3.4% rate increase in April 2019 and a 3.3% rate increase in April 2020. We lease a 2,782 square foot laboratory space in Lake Zurich, Illinois. The laboratory is occupied pursuant to a 36 month lease expiring in February 2021 at a monthly lease rate of $4,600.

Litigation

There are no pending legal proceedings to which we or our properties are subject.

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

General

We were formed in April 2017 as a specialty pharmaceutical company focused on developing and commercializing innovative pharmaceutical products utilizing the FDA's 505(b)(2) regulatory pathway. Our business model is to develop proprietary innovative products that fulfill an unmet patient need. Since our formation, we have focused our efforts on the development and testing of our initial product candidates, the submission of an NDA for our initial product candidate and preliminary discussions with the FDA concerning the regulatory pathway for certain additional product candidates. We have not commenced revenue-producing operations and, under our current plan of business, do not expect to until we have received marketing approval from the FDA for one of our product candidates.

To date, we have capitalized our operations primarily from the June 2017 private placement of approximately $20.1 million of Series A preferred stock, par value $0.001, or the Series A preferred stock. The Series A preferred stock accumulates dividends at the rate of 6% per annum. The shares of Series A preferred stock plus all accrued but unpaid dividends on the Series A preferred stock will automatically convert into shares of our common stock concurrent with the completion of this offering, at the conversion price of 50% of the initial public offering price, provided, however, in no event shall the conversion price be greater than $3.00 nor less than $2.25 per share. Assuming that this offering was completed on March 31, 2018 at a price of $ 6.00 per share, and based on dividends accrued through such date in the amount of $939,574, the Series A preferred stock would have converted into 6,998,274 shares of our common stock.

Plan of Operations

Our plan of operations for the 12-month period following the completion of this offering is to obtain FDA approval of our lead candidate, DS-300, a patent-pending injectable product candidate. DS-300's NDA was filed with the FDA in January 2018. DS-300 has been granted Fast Track Designation by the FDA and is being reviewed by the FDA as a rolling review. Our plan of operations also includes the further development, testing and pursuit of regulatory approval of our other product candidates. We currently have seven other product candidates in various stages of development, and we are in active discussions with the FDA on additional products that may be added to our pipeline if we elect to proceed with the opportunity after the outcome of our pre-IND meetings with the FDA. We also intend to develop our own laboratory in Lake Zurich, Illinois at which we will be able to conduct our own research, formulation and testing of product candidates. Finally, our 12 month plan of operations includes the establishment of an internal sales infrastructure. We are in the process of registering for licenses to distribute pharmaceuticals in all required states and territories of the United States. We anticipate being fully registered with all states in advance of launching DS-300 under our own label.

Results of Operations

We were formed on April 27, 2017 and have not commenced revenue-producing operations. To date, our operations have consisted of the development and testing of our initial product candidates, the submission of an NDA for our initial product candidate and preliminary discussions with the FDA concerning the regulatory pathway for certain additional product candidates. From inception on April 27, 2017 through December 31, 2017, we incurred $3.9 million of product development expenses and $3.2 million of administrative expenses. We incurred a net loss of $7.2 million for the period from April 27, 2017 through December 31, 2017. For the three months ended March 31, 2018, we incurred $1.3 million of product development expenses and $1.7 million of administrative expenses. We incurred a net loss of $3.0 million for the three months ended March 31, 2018.

Financial Condition

As of March 31, 2018, we had total assets of $11.7 million and working capital of $10.4 million. We believe that we require a minimum of $10 million of additional capital in order to fund our current business plan over, at least, the 12 months following the date of this prospectus, including the securing of regulatory approval and commencement commercial sales of at least one product candidate. We have undertaken this initial public offering of our common shares to acquire the necessary capital. However, we may require additional capital, the receipt of which there can be no assurance. In the event we require additional capital, we will endeavor to seek additional funds through various financing sources, including the sale of our equity and debt securities, licensing fees for our technology and joint ventures with industry partners. In addition, we will consider alternatives to our current business plan that may enable to us to achieve revenue producing operations and meaningful commercial success with a smaller amount of capital. However, there can be no guarantees that such funds will be available on commercially reasonable terms, if at all. If such financing is not available on satisfactory terms, we may be unable to further pursue our business plan and we may be unable to continue operations, in which case you may lose your entire investment.

Off Balance Sheet Transactions

We do not have any off-balance sheet transactions.

Critical Accounting Policies

Our financial statements are prepared in accordance with accounting principles generally accepted in the United States. The preparation of our financial statements and related disclosures requires us to make estimates and judgments that affect the reported amounts of assets, liabilities, costs and expenses in our financial statements. We base our estimates on historical experience, known trends and events and various other factors that we believe are reasonable under the circumstances, the results of which form the basis for making judgments about the carrying values of assets and liabilities that are not readily apparent from other sources. We evaluate our estimates and assumptions on an ongoing basis. Our actual results may differ from these estimates under different assumptions or conditions.

While our significant accounting policies are described in more detail in Note 2 to our financial statements appearing elsewhere in this prospectus, we believe that the following accounting policies are those most critical to the judgments and estimates used in the preparation of our financial statements.

Research and Development Expenses

Research and development ("R&D") expenses include both internal R&D activities and external contracted services. Internal R&D activity expenses include salaries, benefits, and stock-based compensation and other costs to support our R&D operations. External contracted services include product development efforts including certain product licensor milestone payments, clinical trial activities, manufacturing and control-related activities and regulatory costs. R&D expenses are charged to operations as incurred. We review and accrue R&D expenses based on services performed and rely upon estimates of those costs applicable to the stage of completion of each project. Significant judgments and estimates are made in determining the accrued balances at the end of any reporting period. Actual results could differ from our estimates.

Upfront payments and milestone payments made for the licensing of technology are expensed as research and development in the period in which they are incurred. Nonrefundable advance payments for goods or services to be received in the future for use in research and development activities are recorded as prepaid expenses and are expensed as the related goods are delivered or the services are performed.

Stock-Based Compensation

We account for stock-based compensation under the provisions of the Financial Accounting Standards Board (the "FASB") Accounting Standards Codification ("ASC") - 718 Compensation – Stock Compensation. The guidance under ASC 718 requires companies to estimate the fair value of the stock-based compensation awards on the date of grant for employees and directors and record expense over the related service periods, which are generally the vesting period of the equity awards. Awards for consultants are accounted for under ASC 505-50 - Equity Based Payments to Non-Employees. Compensation expense is recognized over the period during which services are rendered by such consultants and non-employees until completed. At the end of each financial reporting period prior to completion of the service, the fair value of these awards is remeasured using the then-current fair value of our common stock and updated assumption inputs in the Black-Scholes option-pricing model ("BSM").

We estimate the fair value of stock-based option awards to our employees and directors using the BSM. The BSM requires the input of subjective assumptions, including the expected stock price volatility, the calculation of expected term, forfeitures and the fair value of the underlying common stock on the date of grant, among other inputs. The risk-free interest rate was determined from the implied yields for zero-coupon U.S. government issues with a remaining term approximating the expected life of the options or warrants. Dividends on common stock are assumed to be zero for the BSM valuation of the stock options. The expected term of stock options granted is based on vesting periods and the contractual life of the options. Expected volatilities are based on comparable companies' historical volatility, which management believes represents the most accurate basis for estimating expected future volatility under the current conditions. We account for forfeitures as they occur.

Determination of the Fair Value of Common Stock

As there has been no public market for our common stock to date, the estimated fair value of our common stock has been determined by our board of directors as of the date of each grant, with input from management, considering third-party valuations of our common stock as well as our board of directors' assessment of additional objective and subjective factors that it believed were relevant and which may have changed from the date of the most recent third-party valuation through the date of the grant. These third-party valuations were performed in accordance with the guidance outlined in the American Institute of Certified Public Accountants' Accounting and Valuation Guide, *Valuation of Privately- Held-Company Equity Securities Issued as Compensation.* Our common stock valuations were prepared using either the option-pricing method ("OPM") or a hybrid method, both of which used market approaches to estimate our enterprise value. The OPM treats common stock and preferred stock as call options on the total equity value of a company, with exercise prices based on the value thresholds at which the allocation among the various holders of a company's securities changes. Under this method, the common stock has value only if the funds available for distribution to stockholders exceeded the value of the preferred stock liquidation preferences at the time of the liquidity event, such as a strategic sale or merger. A discount for lack of marketability of the common stock is then applied to arrive at an indication of value for the common stock. The hybrid method is a probability-weighted expected return method (PWERM) where the equity value in one or more scenarios is calculated using an OPM. The PWERM is a scenario-based methodology that estimates the fair value of common stock

based upon an analysis of future values for the company, assuming various outcomes. The common stock value is based on the probability-weighted present value of expected future investment returns considering each of the possible outcomes available as well as the rights of each class of stock. The future value of the common stock under each outcome is discounted back to the valuation date at an appropriate risk-adjusted discount rate and probability weighted to arrive at an indication of value for the common stock.

These third-party valuations were performed at various dates, which resulted in valuations of our common stock of $0.21 per share as of April 30, 2017, $1.38 per share as of July 31, 2017, $1.37 per share as of September 30, 2017, $1.37 per share as of December 31, 2017 and $1.56 per share as of March 31, 2018. Our board of directors considered various objective and subjective factors to determine the fair value of our common stock as of each grant date, including:

- the price at which we sold preferred stock and the superior rights and preferences of the preferred stock relative to our common stock at the time of each grant;
- the progress of our research and development programs, including the status of preclinical studies and planned clinical trials for our product candidates;
- our stage of development and our business strategy;
- external market conditions affecting the pharmaceutical industry, and trends within the pharmaceutical industry;
- our financial position, including cash on hand, and our historical and forecasted performance and operating results;
- the lack of an active public market for our common stock and our preferred stock;
- the likelihood of achieving a liquidity event, such as an initial public offering ("IPO") or a sale of our company in light of prevailing market conditions; and
- the analysis of IPOs and the market performance of similar companies in the biopharmaceutical industry.

The assumptions underlying these valuations represent management's best estimates, which involve inherent uncertainties and the application of management judgment. As a result, if factors or expected outcomes change and we use significantly different assumptions or estimates, our stock-based compensation expense could be materially different.

Following the closing of this offering, the fair value of our common stock will be determined based on the quoted market price of our common stock.

Options Granted. The following table sets forth by grant date the number of shares subject to options granted from May 1, 2017 through May 31, 2018, the per share exercise price of the options, the fair value of our common stock per share on each grant date, and the per share estimated fair value of the options:

Grant Date	Number of Shares Subject to Options Granted	Per Share Exercise Price of Options	Fair Value per Common Share on Grant Date	Per Share Estimated Fair Value of Options
May 2017	130,000	$ 0.21	$ 0.21	$ 0.18
July 2017	360,000	$ 1.38	$ 1.38	$ 1.01
August 2017	200,000	$ 1.38	$ 1.38	$ 1.01
November 2017	400,000	$ 1.37	$ 1.37	$ 0.99
May 2018	10,000	$ 1.56	$ 1.56	$ 1.15

RSA's and RSU's Granted. The following table sets forth by grant date the number of shares subject to RSA's and RSU's granted from May 1, 2017 through May 31, 2018, the fair value of our common stock per share on each grant date, and the per share estimated fair value of the RSA's or RSU's:

Grant Date	Number of Shares Granted	Type of Award	Fair Value per Common Share on Grant Date	Per Share Estimated Fair Value
May 2017	2,500,000	RSA	$ 0.21	$ 0.21
July 2017	50,000	RSU	$ 1.38	$ 1.38
September 2017	50,000	RSU	$ 1.38	$ 1.38
January 2018	218,980	RSA	$ 1.37	$ 1.37

Warrant Liability

We estimate the fair value of certain warrants at each reporting period using Level 3 inputs. The estimates in valuation models are based, in part, on subjective assumptions, including but not limited to stock price volatility, the expected life of the warrants, the risk-free interest rate and the exercise price of the warrants, and could differ materially in the future. Changes in the fair value of the warrant liability during the period are recorded as a component of other income (expense). We will continue to adjust the fair value of the warrant liability at the end of each reporting period for changes in fair value until the earlier of the exercise or expiration of the applicable warrants.

Contractual Obligations and Commitments

The following table summarizes our contractual obligations as of March 31, 2018 and the effects that such obligations are expected to have on our liquidity and cash flows in future periods.

	Total	Less than 1 Year	1 to 3 Years	4 to 5 Years	More than 5 Years

Operating lease commitments	$ 408	$ 134	$ 274	—	—

Amounts in the table reflect minimum payments due for our leases of office and laboratory space under operating leases that expire in February and March of 2021.

MANAGEMENT

Set forth below are our directors and executive officers:

Name	Age	Position
Sean E. Brynjelsen	47	President, Chief Executive Officer and Director
W. Wilson Troutman	63	Chief Financial Officer, Treasurer and Secretary
Mark L. Baum	45	Director
Charles J. Casamento	73	Director
Paul V. Maier	70	Director
Norbert G. Riedel, Ph.D.	60	Director

Sean E. Brynjelsen has served as our President, Chief Executive Officer and a member of our board of directors since June 2017. Prior to joining Eton, Mr. Brynjelsen served as Executive Vice President, Business Development, at Sagent Pharmaceuticals, Inc., which was acquired by Nichi-Iko Pharmaceuticals Co., Ltd. for $736 million, where he made a number of successful transactions. Prior to his tenure at Sagent, he was Senior Vice President, Global Business Development for Akorn where he completed over 100 transactions including the acquisition of a number of products. Mr. Brynjelsen earned an MBA degree from the University of Notre Dame and holds a Master of Science in Chemistry and a Bachelor of Science in Biochemistry from the University of Illinois.

We believe that Mr. Brynjelsen's valuable perspective and experience as our President and Chief Executive Officer, considerable experience in the pharmaceuticals industry and extensive leadership skills qualify him to serve on our board of directors.

W. Wilson Troutman has served as our Chief Financial Officer, Treasurer and Secretary since July 2017. Mr. Troutman brings over thirty years of business experience in financial management roles. Prior to joining Eton, Mr. Troutman served in the corporate financial and SEC reporting role for Century Aluminum Company, a NASDAQ reporting company, beginning in 2015. From 2012 until joining Century Aluminum, he served as Vice President and Chief Financial Officer for Omeda Communications, and prior to that he was the Corporate Controller and Treasurer for Akorn, Inc., a manufacturer and distributor of generic pharmaceutical products from 2004 to 2012. Mr. Troutman received an MBA from the University of Chicago in 1987 and a BS from the University of Illinois-Urbana in 1976. He became a Certified Public Accountant in 1977 and is a member of the AICPA, the Illinois CPA Society and Financial Executives International.

Mark L. Baum has served as a member of our board of directors since our inception in April 2017. Mr. Baum is a founder, member of the board of directors and Chief Executive Officer of Imprimis, is the founder and a member of the board of directors of Surface Pharmaceuticals, Inc., and is a founder and member of the board of directors of Melt Pharmaceuticals, Inc. Prior to Mr. Baum's involvement with Imprimis, from 2001 to 2011, he was the founder and managing director of TBLF, LLC, a consulting firm and fund manager, where he managed a series of three funds and acted as a principal investor in financing publicly traded companies or bridge-to-public equity transactions. Before his fund management experience, Mr. Baum founded and served as the president of YesRx, and practiced as a U.S. securities lawyer focused on public company reporting requirements and finance-related matters. Mr. Baum also served on the board of directors for Ideal Power, Inc. until December 31, 2017, where he was chairman of the audit committee. In 2017, Mr. Baum was named Entrepreneur of the Year™ for the San Diego region life sciences category by Ernst & Young LLP.

We believe that Mr. Baum's years of public company executive experience, including knowledge of securities laws, reporting requirements and public company finance-related issues, make him a valued member of our board of directors.

Charles J. Casamento has served as a member of our board of directors since June 2017. Mr. Casamento is currently Executive Director and Principal of The Sage Group, a healthcare advisory group specializing in mergers, acquisitions, and partnerships between biotechnology companies and pharmaceutical companies, since 2007. He was the president and CEO of Osteologix, Inc., a public biopharmaceutical company developing products for treating osteoporosis, from 2004 through 2007. Mr. Casamento was founder of, and from 1999 through 2004, served as chairman of the board, president and CEO, of Questcor Pharmaceuticals, Inc. which was subsequently acquired by Mallinckrodt. Mr. Casamento formerly served as RiboGene, Inc.'s president, CEO and chairman of the board from 1993 through 1999 until it merged with Cypros to form Questcor. He was co-founder, president and CEO of Interneuron Pharmaceuticals, Inc. (Indevus), a biopharmaceutical company, from 1989 until 1993. Indevus was eventually acquired by Endo. Mr. Casamento has also held senior management positions at Genzyme Corporation, where he was senior vice president, pharmaceuticals and biochemicals; American Hospital Supply, where he was vice president of business development and strategic planning for the Critical Care Division; Johnson & Johnson, Hoffmann-LaRoche, Inc. and Sandoz Inc. Mr. Casamento also serves on the Board of Directors of Relmada Therapeutics, AzurRx BioPharma and International Stem Cell Corp. He is Chairman of the Board at Relmada. During his career he has sat on the boards of twelve public companies and has also been a Director and Vice Chairman of The Catholic Medical Missions Board, a large not for profit organization providing health care services to third world countries. He has served as a guest lecturer at Fordham University and is on the Science Council of Fordham University. He holds a bachelor's degree in Pharmacy from Fordham University and an M.B.A. from Iona College and was originally licensed to practice pharmacy in the states of New York and New Jersey.

We believe that Mr. Casamento's significant experience as chief executive officer in various life sciences companies and his service on several other boards bring valuable knowledge and insights to the board of directors.

Paul V. Maier has served as a member of our board of directors since September 2017. Mr. Maier has over 25 years of experience as a senior executive in biotechnology and pharmaceutical companies and nearly 15 years of experience as a Director of multiple life science public and private company Boards. In addition to his Board positions, Mr. Maier also currently serves as an advisor to the life science industry. In June 2014, Mr. Maier retired after serving since November 2009 as Chief Financial Officer of Sequenom, Inc., a publicly held company serving the discovery, clinical research, and molecular diagnostics market. From February 2007 until November 2009, Mr. Maier served as an independent financial consultant. Previously, Mr. Maier was Senior Vice President and Chief Financial Officer of Ligand Pharmaceuticals, Inc., a commercial stage biopharmaceutical company, a position he held from 1992 to 2007. From 1990 to 1992, Mr. Maier served as Vice President, Finance of DFW West, a division of DFS Group, LP a private multinational retailer. From 1984 to 1990, Mr. Maier was employed by ICN Pharmaceuticals, a pharmaceutical and biotechnology research products company, where he held various executive positions in finance and general management in ICN as well as SPI Pharmaceuticals, a publicly held subsidiary. Mr. Maier currently serves on the Board of Directors of Apricus Biosciences, International Stem Cell Corporation, Biological Dynamics, and Ritter Pharmaceuticals. Mr. Maier received an MBA from Harvard Business School and a BS from Pennsylvania State University.

Mr. Maier's service on other boards of life sciences companies and his extensive financial management experience qualifies him to serve on our board of directors.

Norbert G. Riedel, Ph.D. has served as a member of our board of directors since September 2017. Dr. Riedel has served as the President and Chief Executive Officer and a director of Aptinyx Inc., a biopharmaceutical company discovering and developing innovative therapies for challenging disorders of the brain and nervous system, since August 2015. From January 2014 to August 2015, Dr. Riedel served as the President and Chief Executive Officer of Naurex Inc., the predecessor company acquired by Allergan and from which Aptinyx and its technology were spun out. Prior to that time, he was Corporate Vice President and Chief Science and Innovation Officer of Baxter International Inc., a diversified healthcare company from March 2001 until January 2013. From 1998 to 2001, Dr. Riedel served as President and General Manager of the recombinant therapeutic proteins business unit and Vice President of Research and Development at Baxter's bioscience business. Prior to joining Baxter, from 1996 to 1998, he was head of worldwide biotechnology and worldwide core research functions at Hoechst-Marion Roussel, now Sanofi, a global pharmaceutical company. Previously, he held a series of scientific management positions at Hoechst-Marion Roussel and Hoechst AG. Dr. Riedel is a member of the board of directors of Jazz Pharmaceuticals, Zytoprotec GmbH, and the Illinois Biotechnology Industry Organization. He also serves on the Advisory Board of Northwestern University's Innovation and New Ventures Office. From 1999 to 2010, Dr. Riedel was a member of the board of directors of Oscient Pharmaceuticals Corporation, a biopharmaceutical company, and its predecessor company, Genome Therapeutics Corporation, a genomics company. Dr. Riedel was a member of the Supervisory Board of MediGene AG, a biotechnology company from 2003 to 2013. Dr. Riedel was a postdoctoral fellow at Harvard University from 1984 to 1987 and an Assistant Professor and Associate Professor of medicine and biochemistry at Boston University School of Medicine from 1987 to 1991. Dr. Riedel was also a was a visiting professor at Massachusetts Institute of Technology in 1992, and in 2009, Dr. Riedel was elected as member of the Austrian Academy of Sciences. Dr. Riedel is currently an adjunct professor at Boston University School of Medicine, and an adjunct professor of Medicine at Northwestern University's Feinberg School of Medicine.

Dr. Riedel's extensive experience as a director and executive in the pharmaceutical field and his scientific and commercial expertise make him a valued member of our board of directors.

Board Composition

Our board of directors may establish the authorized number of directors from time to time by resolution. Our board of directors currently consists of five members, three of whom qualify as independent under the NASDAQ Stock Market rules.

Generally, under the listing requirements and rules of the NASDAQ Stock Market, independent directors must comprise a majority of a listed company's board of directors within one year of the completion of this offering. Our board of directors has determined that none of Messrs. Casamento, Maier or Riedel has a relationship that would interfere with the exercise of independent judgment in carrying out the responsibilities of a director and that each is "independent" as that term is defined under the applicable rules and regulations of the SEC and the listing requirements and rules of the NASDAQ Stock Market. In making this determination, our board of directors considered the current and prior relationships Messrs. Casamento, Maier and Riedel have with our company and all other facts and circumstances our board of directors deemed relevant in determining their independence, including their beneficial ownership of our capital stock. We believe that Mr. Baum is not independent due to the materiality of the transactions between us and Imprimis Pharmaceuticals, Inc., for which Mr. Baum currently serves as Chief Executive Officer.

Role of the Board in Risk Oversight

One of the key functions of our board of directors is informed oversight of our risk management process. Our board of directors does not have a standing risk management committee, but rather administers this oversight function directly through the board of directors as a whole, as well as through various standing committees of our board of directors that address risks inherent in their respective areas of oversight. In particular, our board of directors is responsible for monitoring and assessing strategic risk exposure and our audit committee has the responsibility to consider and discuss our major financial risk exposures and the steps our management has taken to monitor and control these exposures, including guidelines and policies to govern the process by which risk assessment and management is undertaken. The audit committee also monitors compliance with legal and regulatory requirements.

Board Committees

Our board of directors has established an audit committee and a compensation committee, each of which operate pursuant to a committee charter. We have not established a separate committee for purposes of approving or recommending to our board of directors' nominees for election to our board of directors. Instead, and as permitted by the NASDAQ Stock Market rules, director nominees to our board will be recommended to our full board for approval exclusively by our independent directors constituting a majority of the board's independent directors in a vote in which only independent directors participate. Our board of directors may establish other committees to facilitate the management of our business. The composition and functions of each committee are described below.

Audit Committee

Our audit committee consists of Paul Maier, Charles Casamento and Norbert Riedel, with Mr. Maier serving as chair of the audit committee. Our board of directors has determined that each of these individuals meets the independence requirements of the Sarbanes-Oxley Act of 2002, as amended, or the Sarbanes-Oxley Act, Rule 10A-3 under the Securities Exchange Act of 1934, or the Exchange Act, and the applicable listing standards of NASDAQ. Each member of our audit committee can read and understand fundamental financial statements in accordance with NASDAQ audit committee requirements. In arriving at this determination, the board has examined each audit committee member's scope of experience and the nature of their prior and/or current employment.

Our board of directors has determined that Mr. Maier qualifies as an audit committee financial expert within the meaning of SEC regulations and meets the financial sophistication requirements of the NASDAQ Listing Rules. In making this determination, our board has considered Mr. Maier's formal education and previous and current experience in financial and accounting roles. Both our independent registered public accounting firm and management periodically meet privately with our audit committee.

The functions of this committee include, among other things:

- select a qualified firm to serve as the independent registered public accounting firm to audit our financial statements;
- discuss the scope and results of the audit with the independent registered public accounting firm, and review, with management and the independent registered public accounting firm, our interim and year-end operating results;
- reviewing and approving the engagement of our independent auditors to perform audit services and any permissible non-audit services;
- develop procedures for employees to submit concerns anonymously about questionable accounting or audit matters;
- review our policies on risk assessment and risk management;
- review related-party transactions; and
- reviewing and evaluating on an annual basis the performance of the audit committee and the audit committee charter.

We believe that the composition and functioning of our audit committee complies with all applicable requirements of the Sarbanes-Oxley Act, and all applicable SEC and NASDAQ rules and regulations. We intend to comply with future requirements to the extent they become applicable to us.

Compensation Committee

Our compensation committee consists of Charles Casamento and Norbert Riedel, with Dr. Riedel serving as chair of the compensation committee. These individuals are non-employee directors, as defined in Rule 16b-3 promulgated under the Exchange Act, and are "outside directors," as defined pursuant to Section 162(m) of the Code. Our board of directors has determined that all of these individuals are "independent" as defined under the applicable listing standards of NASDAQ, including the standards specific to members of a compensation committee. The functions of this committee include, among other things:

- reviewing, modifying and approving (or if it deems appropriate, making recommendations to the full board of directors regarding) our overall compensation strategy and policies;
- making recommendations to the full board of directors regarding the compensation and other terms of employment of our executive officers;
- reviewing and approving (or if it deems it appropriate, making recommendations to the full board of directors regarding) the equity incentive plans, compensation plans and similar programs advisable for us, as well as modifying, amending or terminating existing plans and programs;
- administering our equity incentive plans;
- establishing policies with respect to equity compensation arrangements; and
- reviewing and evaluating on an annual basis the performance of the compensation committee and the compensation committee charter.

We believe that the composition and functioning of our compensation committee complies with all applicable requirements of the Sarbanes-Oxley Act, and all applicable SEC and NASDAQ rules and regulations. We intend to comply with future requirements to the extent they become applicable to us.

Compensation Committee Interlocks and Insider Participation

None of our independent directors is currently or has been at any time one of our officers or employees. None of our executive officers currently serves, or has served during the last year, as a member of the board of directors or compensation committee of any entity that has one or more executive officers serving as a member of our board of directors.

Code of Business Conduct and Ethics

Effective upon the closing of this offering, we will adopt a Code of Business Conduct and Ethics, or the Code of Conduct, applicable to all of our employees, executive officers and directors. Following the closing of this offering, the Code of Conduct will be available on our website at www.etonpharma.com. The audit committee of our board of directors will be responsible for overseeing the Code of Conduct and must approve any waivers of the Code of Conduct for employees, executive officers and directors. In addition, we intend to post on our website all disclosures that are required by law or the listing standards of the applicable stock exchange concerning any amendments to, or waivers from, any provision of the Code of Conduct.

Non-Employee Director Compensation

In July 2017, we granted each of Mr. Baum and Mr. Casamento a restricted stock award for 25,000 shares of our common stock as compensation for their service on our board of directors. In September 2017, we granted each of Mr. Riedel and Mr. Maier a restricted stock award for 25,000 shares of our common stock as compensation for their service on our board of directors. All of these restricted stock awards are subject to quarterly vesting over one year and will be 100% vested at June 30, 2018. In January 2018, we granted to each of our nonemployee directors 54,745 shares of restricted common stock, for a total of 218,980 shares. These shares are subject to vesting at the rate of 25% per quarter at each quarter-end in 2018 and will be 100% vested at December 31, 2018. In addition, beginning in June 2017, we began paying each of our non-employee directors a cash retainer of $12,500 per quarter as compensation for their service on our board of directors. Our non-employee directors also received reimbursement of their actual out-of-pocket costs and expenses incurred in connection with attending board meetings.

We intend to adopt a non-employee director compensation policy, pursuant to which our non-employee directors will be eligible to receive compensation for service on our board of directors and committees of our board of directors, following the completion of this offering.

Executive Compensation

Summary Compensation Table

The following table sets forth the compensation awarded to, earned by or paid to, our chief executive officer and our other executive officer for the period from April 27, 2017 (inception) to December 31, 2017. When reviewing the table, please note that Mr. Brynjelsen and Mr. Troutman commenced their employment with us in June 2017 and July 2017, respectively, and that the compensation paid is for less than a full year.

Name and Principal Position	Year	Salary ($)	Bonus ($)	Stock Awards[(1)] ($)	Option Awards[(1)] ($)	All Other Compensation ($)	Total ($)
Sean E. Brynjelsen, President and Chief Executive Officer	2017	172,083	77,366	32,813	13,541	—	295,803
W. Wilson Troutman, Chief Financial Officer	2017	92,821	36,800	—	20,791	—	150,412

(1) Amounts shown in this column do not reflect dollar amounts actually received by our named executive officers. Instead, these amounts reflect the aggregate grant date fair value of each award computed in accordance with the provisions of FASB ASC Topic 718. Assumptions used in the calculation of these amounts are included in Note 9 of our financial statements for the period ended December 31, 2017.

Narrative Disclosure to Summary Compensation Table

Brynjelsen Employment Agreement

We entered into an employment agreement with Mr. Brynjelsen, our president and chief executive officer, in May 2017. Pursuant to the terms of his employment agreement, Mr. Brynjelsen's employment is at-will and may be terminated at any time by us or Mr. Brynjelsen. Under the terms of the employment agreement, Mr. Brynjelsen was initially entitled to receive an annual base salary of $325,000, which was increased to $334,750 effective April 1, 2018. Mr. Brynjelsen is also entitled to receive an annual bonus of up to 45% of his annual base salary based upon our board of directors' assessment of Mr. Brynjelsen's performance and his and our attainment of targeted goals as set by the board of directors (or the compensation committee thereof) in their sole discretion. In accordance with the employment agreement, Mr. Brynjelsen was also granted a restricted stock award of 1,000,000 shares of our common stock on May 17, 2017 under our 2017 Plan. One-fourth of the shares subject to the restricted stock award vest on May 17, 2018 (the first anniversary of the grant date of the restricted stock award) and the remaining shares vest in 12 equal monthly installments thereafter, subject to Mr. Brynjelsen's continued service and subject to full acceleration in the event that Mr. Brynjelsen's employment is terminated without cause or he resigns for good reason within one month prior to or 12 months following a change in control. Pursuant to his employment agreement, Mr. Brynjelsen also entered into a proprietary information, inventions, nonsolicitation and non-competition agreement with us.

Troutman Employment Agreement

We entered into an employment agreement with Mr. Troutman, our chief financial officer, treasurer and secretary, in June 2017. Pursuant to the terms of his employment agreement, Mr. Troutman's employment is at-will and may be terminated at any time by us or Mr. Troutman. Under the terms of the employment agreement, Mr. Troutman was initially entitled to receive an annual base salary of $200,000, which was increased to $206,000 effective April 1, 2018. Mr. Troutman is also entitled to receive an annual bonus of up to 40% of his annual base salary based upon our board of directors' assessment of Mr. Troutman's performance and his and our attainment of targeted goals as set by the board of directors (or the compensation committee thereof) in their sole discretion. In accordance with the employment agreement, Mr. Troutman was also granted an option to purchase 150,000 shares of our common stock on July 28, 2017 under our 2017 Plan. One-fourth of the shares subject to the option grant vest on July 17, 2018 (the first anniversary of Mr. Troutman's commencement of employment) and the remaining shares vest in three equal yearly installments thereafter, subject to Mr. Troutman's continued service and subject to full acceleration in the event that Mr. Troutman's employment is terminated without cause or he resigns for good reason within one month prior to or 12 months following a change in control. Pursuant to his employment agreement, Mr. Troutman also entered into a confidential information and inventions agreement with us.

Potential Payments Upon Termination and Change in Control

The definitions of "cause," "good reason" and "change in control" referenced below are defined in the individual employment agreements between us and each of the named executive officers.

Mr. Brynjelsen

Pursuant to his employment agreement, Mr. Brynjelsen is entitled to severance benefits if, after the six-month anniversary of his employment start date, his employment is terminated without cause or if he resigns for good reason, subject to his execution of a release and his continued compliance with his proprietary information, inventions, non-solicitation and non-competition agreement. If, after such six-month anniversary of his employment start date, Mr. Brynjelsen is terminated without cause or resigns for good reason, he is eligible to receive 12 months of continued base salary and premiums for continued health coverage. If Mr. Brynjelsen is terminated without cause or resigns for good reason within one month prior to or 12 months following a change of control, and subject to his execution of a release, then all unvested shares of common stock pursuant to his restricted stock award will vest.

Mr. Troutman

Pursuant to his employment agreement, Mr. Troutman is entitled to severance benefits if, after the six-month anniversary of his employment start date, his employment is terminated without cause or if he resigns for good reason, subject to his execution of a release and his continued compliance with his confidential information and inventions agreement and the surviving terms of his employment agreement. If, after such six-month anniversary of his employment start date, Mr. Troutman is terminated without cause or resigns for good reason, he is eligible to receive six months of continued base salary and premiums for continued health coverage. If Mr. Troutman is terminated without cause or resigns for good reason within one month prior to or 12 months following a change of control, and subject to his execution of a release, then all remaining shares of common stock underlying his outstanding options will vest.

Related Party Transactions

The following includes a summary of transactions since April 27, 2017 (inception) to which we have been a party, in which the amount involved in the transaction exceeded $120,000, and in which any of our directors, executive officers or, to our knowledge, beneficial owners of more than 5% of our voting securities or any member of the immediate family of any of the foregoing persons had or will have a direct or indirect material interest. Other than described below, there have not been, nor are there currently any proposed, transactions or series of similar transactions to which we have been or will be a party other than compensation arrangements, which include equity and other compensation, termination, change in control and other arrangements, which are described under "Executive compensation."

Our Chief Executive Officer, Sean Brynjelsen, has a material ownership interest in several companies from which we have licensed or acquired product development and marketing rights. Set forth below is a tabular presentation of these arrangements, and the products and transactional agreements are more fully described in "*Our Business-Products*":

Licensor/Seller	Product	Mr. Brynjelsen's % Ownership Interest in Licensor/Seller
Andersen Pharma, LLC	DS-100	27%
Eyemax LLC	EM-100	33%
Selenix LLC	DS-200	50%

We are required to pay to the above parties licensing fees, milestone payments and royalty payments. We believe the terms of the transactional agreements, including the licensing fees, milestone payments and royalty payments, approximate the terms and payments we could have obtained in an arms' length transaction with an unaffiliated party.

In May 2017, in connection with our corporate formation, we issued to Imprimis, our former parent and an entity affiliated with Mark L. Baum, a member of our board of directors, 3,500,000 shares of our common stock in consideration of Imprimis' payment of $3,500 to us.

In May 2017, we entered into a consulting agreement with Mr. Baum. Pursuant to the terms of his consulting agreement, Mr. Baum agreed to provide senior management advisory services to us through this offering. In consideration of his services, we granted a restricted stock award to Mr. Baum for 730,000 shares of our common stock under the 2017 Plan, all of which vested on April 30, 2018.

In May 2017, we entered into consulting agreements with three other executives of Imprimis pursuant to which the executives agreed to provide management advisory services to us through this offering in consideration of our grant of restricted stock awards to the executives for a total of 770,000 shares of our common stock under the 2017 Plan, all of which vested on April 30, 2018.

Limitation of Liability of Directors and Indemnification of Directors and Officers

The Delaware General Corporation Law provides that corporations may include a provision in their certificate of incorporation relieving directors of monetary liability for breach of their fiduciary duty as directors, provided that such provision shall not eliminate or limit the liability of a director (i) for any breach of the director's duty of loyalty to the corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) for unlawful payment of a dividend or unlawful stock purchase or redemption, or (iv) for any transaction from which the director derived an improper personal benefit. Our certificate of incorporation provides that directors are not liable to us or our stockholders for monetary damages for breach of their fiduciary duty as directors to the fullest extent permitted by Delaware law. In addition to the foregoing, our certificate of incorporation provides that we may indemnify directors and officers to the fullest extent permitted by law.

The above provisions in our certificate of incorporation may have the effect of reducing the likelihood of derivative litigation against directors and may discourage or deter stockholders or management from bringing a lawsuit against directors for breach of their fiduciary duty, even though such an action, if successful, might otherwise have benefited us and our stockholders. However, we believe that the foregoing provisions are necessary to attract and retain qualified persons as directors.

Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to our directors, officers and controlling persons pursuant to the foregoing provisions, or otherwise, we have been advised that in the opinion of the SEC, such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable.

PRINCIPAL STOCKHOLDERS

The following table sets forth certain information regarding the beneficial ownership of our common stock as of the date of this prospectus by:

- each person who is known by us to be the beneficial owner of more than five percent (5%) of our issued and outstanding shares of common stock;
- each of our directors and executive officers; and
- all directors and executive officers as a group.

The beneficial ownership of each person was calculated based on 13,217,254 shares of common stock issued and outstanding prior to the offering, including 6,218,980 shares issued and outstanding as of the date of this prospectus, and 6,998,274 shares issuable upon the conversion of our outstanding Series A Preferred stock outstanding as of March 31, 2018. The SEC has defined "beneficial ownership" to mean more than ownership in the usual sense. For example, a person has beneficial ownership of a share not only if he owns it, but also if he has the power (solely or shared) to vote, sell or otherwise dispose of the share. Beneficial ownership also includes the number of shares that a person has the right to acquire within 60 days of the date of this prospectus, pursuant to the exercise of options or warrants or the conversion of notes, debentures or other indebtedness. Two or more persons might count as beneficial owners of the same share. Unless otherwise indicated, the address for each reporting person is c/o Eton Pharmaceuticals, Inc. 21925 W. Field Parkway, Suite 235, Deer Park, Illinois 60010.

Name of Director or Executive Officer	Number of Shares	Percentage Owned Prior to Offering[1]	Percentage Owned After Offering[2]
Sean E. Brynjelsen[1]	1,024,078	7.7%	%
W. Wilson Troutman[2]	37,500	*	*
Mark L. Baum [3]	784,745	5.9%	%
Charles J. Casamento[4]	63,120	*	*
Paul V. Maier[3]	54,745	*	*
Norbert G. Riedel, Ph.D.[3]	54,745	*	*
Directors and executive officers as a group	2,018,933	15.3%	%

* Less than 1%.

Name and Address of 5% + Holders	Number of Shares	Percentage Owned Prior to Offering	Percentage Owned After Offering
Imprimis Pharmaceuticals, Inc. 12264 El Camino Real, Suite 350 San Diego, CA 92130	3,500,000	26.5%	%
Peter Appel [5] 3505 Main Londge Dr. Coconut Grove, FL 33133	1,046,850	7.9%	%

(1) Includes (i) 1,000,000 shares issued pursuant to a restricted stock purchase agreement, of which 500,000 shares remain subject to forfeiture as of the date of this prospectus, and (ii) 24,078 common shares issuable upon conversion of 23,000 shares of Series A preferred stock. Does not include 200,000 shares issuable upon exercise of an unvested stock option.

(2) Includes 37,500 shares issuable upon exercise vested stock options and excludes 212,500 shares issuable upon exercise of unvested stock options.

(3) Includes 54,745 shares issued pursuant to a restricted stock purchase agreement, of which 13,686 shares remain subject to forfeiture as of the date of this prospectus. Excludes 25,000 shares issuable upon settlement of a restricted stock unit award.

(4) Includes 54,745 shares issued pursuant to a restricted stock purchase agreement, of which 13,686 shares remain subject to forfeiture as of the date of this prospectus. Also, includes 8,375 common shares issuable upon conversion of 8,000 shares of Series A preferred stock. Excludes 25,000 shares issuable upon settlement of a restricted stock unit award.

(5) Represents shares of our common stock issuable upon the conversion of 1,000,000 shares of Series A Preferred stock held by Mr. Appel.

ESTIMATED USE OF PROCEEDS

We estimate that the net proceeds from our issuance and sale of shares of our common stock in this offering will be approximately $ million (or $ million if the underwriters exercise in full their option to purchase additional shares), assuming an initial public offering price of $6.00 per share, and after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us.

As of March 31, 2018, we had cash and cash equivalents of $11.2 million. We intend to use the net proceeds from this offering, together with our existing cash and cash equivalents, as follows:

- approximately $ million to fund clinical trials and product development;
- approximately $ million to fund FDA filing fees;
- approximately $ million to fund laboratory expansion; and
- the balance for other general corporate purposes, including general and administrative expenses and working capital.

Our expected use of net proceeds from this offering represents our current intentions based upon our present plans and business condition. As of the date of this prospectus, we cannot predict with complete certainty all of the particular uses for the net proceeds to be received upon the completion of this offering or the actual amounts that we will spend on the uses set forth above. We believe opportunities may exist from time to time to expand our current business through the acquisition or in- license of complementary product candidates. While we have no current agreements for any specific acquisitions or in-licenses at this time, we may use a portion of the net proceeds for these purposes.

The amounts and timing of our actual expenditures will depend on numerous factors, including the progress of our clinical trials and other development and commercialization efforts for our initial product candidates, as well as the amount of cash used in our operations. Based on our current operational plans and assumptions, we expect our cash and cash equivalents, together with the net proceeds from this offering, will be sufficient to fund our planned operations over, at least, the 12 months following the close of this offering.

However, we cannot estimate with certainty the amount of net proceeds to be used for the purposes described above. We may find it necessary or advisable to use the net proceeds for other purposes, and we will have broad discretion in the application of the net proceeds. Pending the uses described above, we plan to invest the net proceeds from this offering in short- and intermediate-term, interest-bearing obligations, investment-grade instruments, certificates of deposit or direct or guaranteed obligations of the government.

CAPITALIZATION

The following table sets forth our capitalization as of March 31, 2018:

- on an actual basis;
- on a pro forma basis to give effect to (i) the automatic conversion of all outstanding shares of our preferred stock into an aggregate of 6,998,274 shares of common stock, which will occur upon the closing of this offering; (ii) the exercise price of a certain outstanding warrant to purchase shares of our common stock becoming fixed upon the conversion of the preferred stock resulting in the reclassification of the warrant liability to equity upon the closing of this offering; and (iii) the filing and effectiveness of our amended and restated certificate of incorporation, which will occur immediately prior to the closing of this offering; and
- on a pro forma as adjusted basis to reflect, in addition, our sale of shares of common stock in this offering at the initial public offering price of $6.00 per share, after deducting underwriting discounts and commissions and estimated offering expenses payable by us.

You should read the information in this table together with our consolidated financial statements and related notes and "Management's Discussion and Analysis of Financial Condition and Results of Operations" appearing elsewhere in this prospectus.

	As of March 31, 2018		
	Actual	Pro Forma	Pro Forma As Adjusted
Cash and cash equivalents	$ 11,215	$	$
Warrant liability	603		
Total redeemable convertible preferred stock – Series A; $0.001 par value, 10,000,000 shares authorized, 6,685,082 shares issued and outstanding, actual; no shares issued and outstanding, pro forma and pro forma as adjusted	19,710		
Stockholders' (deficit) equity:			
Common stock, $0.001 par value, 50,000,000 shares authorized, 6,218,980 shares issued and outstanding, actual; 13,217,254 shares issued and outstanding, pro forma; shares issued and outstanding, pro forma as adjusted	6		
Additional paid-in capital	2,809		
Accumulated deficit	(12,363)		
Total stockholders' (deficit) equity	(9,548)		
Total capitalization	$ 10,765		

The number of shares of our common stock to be outstanding after this offering is based on 6,218,980 shares of our common stock outstanding as of the date of this prospectus, plus 6,998,274 shares common stock issuable upon conversion of our Series A preferred stock as of March 31, 2018, and excludes:

- 1,090,000 shares of our common stock issuable upon exercise of outstanding options, with an average weighted exercise price of $1.24 per share, granted pursuant to our 2017 Plan as of March 31, 2018;

- 100,000 shares of common stock issuable upon the settlement of outstanding restricted stock units pursuant to the 2017 Plan;

- approximately 1,279,834 shares of our common stock issuable upon exercise of outstanding warrants, with an average weighted exercise price of $1.60 per share as of March 31, 2018, which includes an estimated 679,834 shares of our common stock issuable upon exercise of a warrant issued to the underwriter as placement agent compensation in connection with the offering of our Series A preferred stock;

- up to shares issuable pursuant to the underwriter's over-allotment option; and

- 1,081,020 shares of our common stock reserved for future grants under our 2017 Plan.

DILUTION

If you invest in our common stock, your interest will be diluted to the extent of the difference between the amount per share paid by purchasers of shares of common stock in this offering and the pro forma as adjusted net tangible book value per share of common stock immediately after the completion of this offering.

As of March 31, 2018, our pro forma net tangible book value was approximately $ million, or $ per share of common stock. Our pro forma net tangible book value per share represents the amount of our total tangible assets reduced by the amount of our total liabilities and divided by the total number of shares of our common stock outstanding as of March 31, 2018, after giving effect to the automatic conversion of all outstanding shares of our preferred stock into common stock immediately prior to the closing of this offering.

After giving effect to our sale in this offering of shares of our common stock, at the initial public offering price of $6.00 per share, after deducting underwriting discounts and commissions and estimated offering expenses payable by us, our pro forma as adjusted net tangible book value as of March 31, 2018 would have been approximately $ million, or $ per share of our common stock. This represents an immediate increase in pro forma as adjusted net tangible book value of $ per share to our existing stockholders and an immediate dilution of $ per share to investors purchasing shares in this offering.

The following table illustrates this dilution:

Initial public offering price per share		$
Pro forma net tangible book value per share as of March 31, 2018, before giving effect to this offering	$	
Increase in pro forma net tangible book value per share attributable to new investors purchasing shares in this offering		
Pro forma as adjusted net tangible book value per share, after giving effect to this offering		$
Dilution per share to new investors purchasing shares in this offering		$

If the underwriters exercise their option to purchase additional shares of our common stock in full, the pro forma as adjusted net tangible book value after this offering would be $ per share, the increase in pro forma net tangible book value per share would be $ and the dilution per share to new investors would be $ per share, in each case assuming an initial public offering price of $ per share, which is the midpoint of the price range set forth on the cover page of this prospectus.

The following table summarizes, on a pro forma as adjusted basis as described above, the difference between existing stockholders and new investors with respect to the number of shares of common stock purchased from us, the total consideration paid to us and the average price per share paid, before deducting underwriting discounts and commissions and estimated offering expenses:

	Shares Purchased		Total Consideration		Average Price
	Number	Percent	Amount	Percent	Per Share
Existing stockholders		%	$	%	$
New public investors					$
Total		100.0%	$	100.0%	

To the extent that our outstanding warrants are exercised, investors will experience further dilution.

Except as otherwise indicated, the above discussion and tables assume no exercise of the underwriter's over-allotment option. If the underwriter exercises its over-allotment option in full, our existing stockholders would own % and our new investors would own % of the total number of shares of our common stock outstanding upon the completion of this offering.

The foregoing tables and calculations are based on the number of shares of our common stock outstanding as of March 31, 2018, after giving effect to the automatic conversion of all outstanding shares of our preferred stock into common stock immediately prior to the closing of this offering, and excludes:

- 1,090,000 shares of our common stock issuable upon exercise of outstanding options, with an average weighted exercise price of $1.24 per share, granted pursuant to our 2017 Plan;
- 100,000 shares of common stock issuable upon the settlement of outstanding restricted stock units pursuant to the 2017 Plan;
- approximately 1,279,834 shares of our common stock issuable upon exercise of outstanding warrants, with an average weighted exercise price of $1.60 per share, which includes an estimated 679,834 shares of our common stock issuable upon exercise of a warrant issued to the underwriter as placement agent compensation in connection with the offering of our Series A preferred stock;
- up to shares issuable pursuant to the underwriter's over-allotment option; and
- 1,081,020 shares of our common stock reserved for future grants under our 2017 Plan.

DESCRIPTION OF SECURITIES

Common Stock

Upon the completion of this offering, our amended and restated certificate of incorporation will authorize us to issue up to 50,000,000 shares of common stock, $0.001 par value per share, and shares of preferred stock, $0.001 par value per share, all of which shares of preferred stock will be undesignated. Our board of directors may establish the rights and preferences of the preferred stock from time to time. As of March 31, 2018, we had 6,218,980 shares outstanding of common stock, held by nine stockholders of record. As of March 31, 2018, after giving effect to the conversion of all of the outstanding shares of our Series A preferred stock into 6,998,274 shares of common stock, there would have been 13,217,254 shares of common stock issued and outstanding, held by 241 stockholders of record.

Holders of shares of common stock are entitled to one vote per share on all matters to be voted upon by the stockholders generally. Stockholders are entitled to receive such dividends as may be declared from time to time by the board of directors out of funds legally available therefore, and in the event of liquidation, dissolution or winding up of the company to share ratably in all assets remaining after payment of liabilities. The holders of shares of common stock have no preemptive, conversion, subscription rights or cumulative voting rights.

Preferred Stock

As of March 31, 2018, there were 6,685,082 shares of Series A preferred stock outstanding. All currently outstanding shares of preferred stock will convert automatically into 6,998,274 shares of common stock immediately prior to the closing of this offering.

Dividends

We do not anticipate the payment of cash dividends on our common stock in the foreseeable future.

Warrants

Upon the completion of this offering, we will have outstanding the following warrants to purchase shares of our common stock:

- warrant to purchase 600,000 shares of our common stock exercisable at $0.01 per share. The warrants were issued on May 4, 2017 to Liquid Patent Advisors, LLC as consideration for consulting services; and
- warrant issued to National Securities Corporation on June 26, 2017, as placement agent compensation in connection with our June 2017 placement of Series A preferred stock, to purchase shares of our common stock in an amount equal to 10% of the shares of common stock issuable upon conversion of 6,494,082 shares of our Series A preferred stock, at an exercise price equal to 50% of the initial public offering price. Assuming the conversion of all of our Series A preferred stock as of March 31, 2018, the placement agent warrant would entitle its holder to purchase 679,834 shares of our common stock.

The warrants contain provisions for the adjustment of the exercise price and the number of shares issuable upon the exercise of the warrants in the event of certain stock dividends, stock splits, reorganizations, reclassifications and consolidations. The holders of the shares issuable upon exercise of the warrants issued to Liquid Patent Advisors, LLC and National Securities Corporation are entitled to registration rights with respect to such shares as described in greater detail under the heading “—Registration Rights” below.

Registration Rights

Following the completion of this offering, certain holders of an aggregate of shares of our common stock, or their permitted transferees, are entitled to rights with respect to the registration under the Securities Act of their shares of common stock, including demand registration rights and piggyback registration rights. These rights are provided under the terms of a registration rights agreement between us and the investors. In any registration made pursuant to this agreement, all fees, costs and expenses of the registrations will be borne by us, and all selling expenses, including estimated underwriting discounts and selling commissions, will be borne by the holders of the shares being registered.

In connection with our June 2017 Series A preferred stock financing, we entered into the registration rights agreement, pursuant to which we will be required, upon the written request at any time more than 180 days after the completion of this offering by the holders of at least 50% of the shares that are entitled to registration rights under the registration rights agreement, to register, as soon as practicable, all or a portion of these shares for public resale. We are required to effect only one registration pursuant to this provision of the registration rights agreement. These demand registration rights terminate as to each investor when their shares subject to the registration rights agreement may be sold by the investor pursuant to Rule 144 under the Securities Act without regard to both the volume limitations for sales as provided in Rule 144.

In connection with our issuance to Liquid Patent Advisors, LLC and National Securities Corporation of warrants to purchase shares of our common stock, we entered into a registration rights agreement with Liquid Patent Advisors, LLC and National Securities Corporation pursuant to which we will be required, upon the written request at any time more than 180 days after the completion of this offering by the holders of at least 50% of the shares that are entitled to registration rights under that agreement and the registration rights agreement we entered into with the Series A preferred stock investors, as a group, to register, as soon as practicable, all or a portion of these shares for public resale. We are required to effect only one registration pursuant to this provision of the registration rights agreement. These demand registration rights terminate as to each stockholder when their shares subject to the registration rights agreement may be sold by the investor pursuant to Rule 144 under the Securities Act without regard to both the volume limitations for sales as provided in Rule 144.

In addition, the registration rights agreement contains piggyback registration rights with respect our capital stock held by these investors. These piggyback registration rights terminate with respect to each stockholder when their shares subject to the registration rights agreement may be sold by the stockholder pursuant to Rule 144 under the Securities Act without regard to both the volume limitations for sales as provided in Rule 144.

If we register any of our securities for our own account, after the completion of this offering, the holders of these shares are entitled to include their shares in the registration. Both we and the underwriters of any underwritten offering have the right to limit the number of shares registered by these holders for marketing reasons, subject to limitations set forth in the RRA with these investors.

Anti-Takeover Effects of Certain Provisions of Delaware Law and Our Charter Documents

The following is a summary of certain provisions of Delaware law, our Certificate of Incorporation and our bylaws. This summary does not purport to be complete and is qualified in its entirety by reference to the corporate law of Delaware and our Certificate of Incorporation and bylaws.

Effect of Delaware Anti-Takeover Statute. We are subject to Section 203 of the Delaware General Corporation Law, an anti-takeover law. In general, Section 203 prohibits a Delaware corporation from engaging in any business combination (as defined below) with any interested stockholder (as defined below) for a period of three years following the date that the stockholder became an interested stockholder, unless:

- prior to that 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 consummation 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 commenced, excluding for purposes of determining the number of shares of voting stock outstanding (but not the voting stock owned by the interested stockholder) those shares owned by persons who are directors and officers and by excluding employee stock plans in which employee participants do not have the right to determine whether shares held subject to the plan will be tendered in a tender or exchange offer; or

- on or subsequent to that date, the business combination is approved by the board of directors of the corporation and authorized at an annual or special meeting of stockholders, and not by written consent, by the affirmative vote of at least 66 2/3% of the outstanding voting stock that is not owned by the interested stockholder.

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;

- subject to limited exceptions, any transaction involving the corporation that has the effect of increasing the proportionate share of the stock of any class or series of the corporation beneficially owned by the interested stockholder; or

- the receipt by the interested stockholder of the benefit of any loans, advances, guarantees, pledges or other financial benefits provided by or through the corporation.

In general, Section 203 defines an interested stockholder as any entity or person beneficially owning 15% or more of the outstanding voting stock of the corporation, or who beneficially owns 15% or more of the outstanding voting stock of the corporation at any time within a three-year period immediately prior to the date of determining whether such person is an interested stockholder, and any entity or person affiliated with or controlling or controlled by any of these entities or persons.

Our Charter Documents. Our charter documents include provisions that may have the effect of discouraging, delaying or preventing a change in control or an unsolicited acquisition proposal that a stockholder might consider favorable, including a proposal that might result in the payment of a premium over the market price for the shares held by our stockholders. Certain of these provisions are summarized in the following paragraphs.

Effects of authorized but unissued common stock. One of the effects of the existence of authorized but unissued common stock may be to enable our board of directors to make more difficult or to discourage an attempt to obtain control of our Company by means of a merger, tender offer, proxy contest or otherwise, and thereby to protect the continuity of management. If, in the due exercise of its fiduciary obligations, the board of directors were to determine that a takeover proposal was not in our best interest, such shares could be issued by the board of directors without stockholder approval in one or more transactions that might prevent or render more difficult or costly the completion of the takeover transaction by diluting the voting or other rights of the proposed acquirer or insurgent stockholder group, by putting a substantial voting block in institutional or other hands that might undertake to support the position of the incumbent board of directors, by effecting an acquisition that might complicate or preclude the takeover, or otherwise.

Cumulative Voting. Our Certificate of Incorporation does not provide for cumulative voting in the election of directors, which would allow holders of less than a majority of the stock to elect some directors.

Vacancies. Our Certificate of Incorporation provides that all vacancies may be filled by the affirmative vote of a majority of directors then in office, even if less than a quorum.

Special Meeting of Stockholders and Stockholder Action by Written Consent. A special meeting of stockholders may only be called by our president, board of directors or such officers or other persons as our board may designate at any time and for any purpose or purposes as shall be stated in the notice of the meeting.

Transfer Agent and Registrar

Upon the closing of this offering, the transfer agent and registrar for our common stock will be Action Stock Transfer Corporation, located at 2469 E. Fort Union Blvd., Suite 214, Salt Lake City, Utah 84121.

SHARES ELIGIBLE FOR FUTURE SALE

Prior to this offering, there has been no public market for shares of our common stock. Future sales of substantial amounts of shares of common stock, including shares issued upon the exercise of outstanding warrants and options, in the public market after this offering, or the possibility of these sales occurring, could adversely affect the prevailing market price for our common stock or impair our ability to raise equity capital.

Upon the completion of this offering, a total of 13,217,254 shares of common stock will be outstanding, assuming the automatic conversion of all outstanding Series A preferred stock into shares of common stock in connection with the completion of this offering. All shares of common stock sold in this offering by us, plus any shares sold upon exercise of the underwriter's over-allotment option, will be freely tradable in the public market without restriction or further registration under the Securities Act, unless these shares are held by "affiliates," as that term is defined in Rule 144 under the Securities Act.

The remaining shares 13,217,254 of common stock will be "restricted securities," as that term is defined in Rule 144 under the Securities Act. These restricted securities are eligible for public sale only if they are registered under the Securities Act or if they qualify for an exemption from registration under Rules 144 or 701 under the Securities Act, which are summarized below.

Subject to the lock-up agreements described below and the provisions of Rules 144 and 701 under the Securities Act, these restricted securities will be available for sale in the public market beginning more than 180 days after the date of this prospectus.

Rule 144

In general, under Rule 144 as currently in effect, once we have been subject to public company reporting requirements for at least 90 days, a person who is not deemed to have been one of our affiliates for purposes of the Securities Act at any time during the 90 days preceding a sale and who has beneficially owned the shares proposed to be sold for at least six months, including the holding period of any prior owner other than our affiliates, is entitled to sell such shares without complying with the manner of sale, volume limitation, or notice provisions of Rule 144, subject to compliance with the public information requirements of Rule 144. If such a person has beneficially owned the shares proposed to be sold for at least one year, including the holding period of any prior owner other than our affiliates, then such person is entitled to sell such shares without complying with any of the requirements of Rule 144.

In general, under Rule 144, as currently in effect, our affiliates or persons selling shares on behalf of our affiliates are entitled to sell upon expiration of the lock-up agreements described below, within any three-month period beginning 90 days after the date of this prospectus, a number of shares that does not exceed the greater of:

- 1% of the number of shares of common stock then outstanding; or
- the average weekly trading volume of the common stock during the four calendar weeks preceding the filing of a notice on Form 144 with respect to such sale.

Sales under Rule 144 by our affiliates or persons selling shares on behalf of our affiliates are also subject to certain manner of sale provisions and notice requirements and to the availability of current public information about us.

Rule 701

Rule 701 generally allows a stockholder who purchased shares of our common stock pursuant to a written compensatory plan or contract and who is not deemed to have been one of our affiliates during the immediately preceding 90 days to sell these shares in reliance upon Rule 144, but without being required to comply with the public information, holding period, volume limitation, or notice provisions of Rule 144. Rule 701 also permits our affiliates to sell their Rule 701 shares under Rule 144 without complying with the holding period requirements of Rule 144. However, all holders of Rule 701 shares are required to wait until 90 days after the date of this prospectus before selling such shares pursuant to Rule 701.

Lock-Up Agreements

We, our executive officers and directors and the holders of our common stock outstanding on the date of this prospectus have entered into lock-up agreements or otherwise agreed that we and they will not, subject to limited exceptions, (i) offer, pledge, announce the intention to sell, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase or otherwise dispose of, directly or indirectly, or file with the SEC a registration statement under the Securities Act relating to, any shares of our common stock outstanding as of the date of this prospectus, or publicly disclose the intention to make any offer, sale, pledge, disposition or filing, or (ii) enter into any swap or other arrangement that transfers all or a portion of the economic consequences associated with the ownership of any shares of common stock (regardless of whether any of these transactions are to be settled by the delivery of shares of common stock, in cash or otherwise), in each case without the prior written consent of the underwriter for a period of (i) 12 months after the date of this prospectus, with respect to all shares held by our officers and directors, except for 218,980 shares issued pursuant to restricted stock agreements and (ii) six months after the date of this prospectus with respect to the aforementioned 218,980 shares held by our officers and directors and all shares issuable upon conversion of our Series A preferred stock.

Registration Statements on Form S-8

We intend to file a registration statement on Form S-8 under the Securities Act to register all of the shares of common stock to be issued or reserved for issuance under our 2007 Stock Incentive plan. Shares covered by this registration statement will be eligible for sale in the public market, upon the expiration or release from the terms of the lock-up agreements and subject to vesting of such shares.

UNDERWRITING

We are offering the shares of common stock described in this prospectus through the underwriter, National Securities Corporation, which is acting as lead managing underwriter of the offering.

We have agreed to enter into an underwriting agreement with the underwriter prior to the closing of this offering. Subject to the terms and conditions of the underwriting agreement, we will agree to sell to the underwriter, and the underwriter will agree to purchase, at the public offering price less the underwriting discounts and commissions set forth on the cover page of this prospectus, as it may be supplemented, shares of common stock.

The underwriter is committed to purchase all of the common shares offered by us, other than those covered by the option to purchase additional shares described below, if they purchase any shares. The underwriting agreement provides that the underwriter's obligations to purchase shares of our common stock are subject to conditions contained in the underwriting agreement. A copy of the underwriting agreement has been filed as an exhibit to the registration statement of which this prospectus forms a part.

We have been advised by the underwriter that the underwriter proposes to offer shares of our common stock directly to the public at the public offering price set forth on the cover page of this prospectus and to certain dealers that are members of the Financial Industry Regulatory Authority, or FINRA. Any securities sold by the underwriter to such securities dealers will be sold at the public offering price less a selling concession not in excess of $ per share. After the public offering of the shares, the offering price and other selling terms may be changed by the underwriter.

None of our securities included in this offering may be offered or sold, directly or indirectly, nor may this prospectus and any other offering material or advertisements in connection with the offer and sales of any of our common stock, be distributed or published in any jurisdiction, except under circumstances that will result in compliance with the applicable rules and regulations of that jurisdiction. Persons who receive this prospectus are advised to inform themselves about and to observe any restrictions relating to this offering of our common stock and the distribution of this prospectus. This prospectus is neither an offer to sell nor a solicitation of any offer to buy any of our common stock included in this offering in any jurisdiction where that would not be permitted or legal.

The underwriter has advised us that it does not intend to confirm sales to any accounts over which they exercise discretionary authority.

Underwriting Discount and Expenses

The following table summarizes the underwriting discount and commission to be paid to the underwriter by us.

	Without Over-Allotment	With Over-Allotment
Public offering price	$	$
Underwriting discount to be paid to the underwriter	$	$
Net proceeds, before other expenses	$	$

In addition to the discount set forth in the above table, we have agreed to issue to the underwriter and its designees a warrant to purchase up to 10% of the shares of common stock sold in this offering and to pay $150,000 for their counsel's fees as well as $50,000 for certain of their accountable expenses. The terms of the underwriter's warrant are more fully described in this section under the caption, "Underwriter Warrants."

Over-Allotment Option

In addition to the discount set forth in the above table, we have granted to the underwriter an option, exercisable not later than 45 days after the date of this prospectus, to purchase up to an additional shares of our common stock (up to 15**%** of the shares firmly committed in this offering) at the public offering price, less the underwriting discount, set forth on the cover page of this prospectus. The underwriter may exercise the option solely to cover over-allotments, if any, made in connection with this offering. If any additional shares of our common stock are purchased pursuant to the over-allotment option, the underwriter will offer these additional shares of our common stock on the same terms as those on which the other shares of common stock are being offered hereby.

Determination of Offering Price Listing

We have applied to list our common stock on The NASDAQ Capital Market under the symbol "ETON". In order to meet the requirements for listing on that exchange, the underwriters have undertaken to sell a minimum number of shares to a minimum number of beneficial owners as required by that exchange.

Before this offering, there has been no public market for our common stock. There is no current market for our common stock. Our underwriter, National Securities Corporation, is not obligated to make a market in our securities, and even if it chooses to make a market, can discontinue at any time without notice. Neither we nor the underwriter can provide any assurance that an active and liquid trading market in our securities will develop or, if developed, that the market will continue.

The public offering price of the shares offered by this prospectus has been determined by negotiation between us and the underwriter. Among the factors considered in determining the public offering price of the shares were:

- our history and our prospects;
- the industry in which we operate;
- our past and present operating results;
- the previous experience of our executive officers; and
- the general condition of the securities markets at the time of this offering.

The offering price stated on the cover page of this prospectus should not be considered an indication of the actual value of the shares. Upon the commencement of trading, the price of our shares will be subject to change as a result of market conditions and other factors, and we cannot assure you that the shares can be resold at or above the public offering price.

Underwriter Warrants

In connection with this offering, we have agreed to issue to National Securities Corporation and its designees a warrant to purchase shares of our common stock equal to 10% of the shares of common stock sold in this offering. This warrant is exercisable at $— per share (125% of the price of the common stock sold in this offering), expiring five years from the date of this prospectus. The warrant and the shares of common stock underlying the warrant have been deemed compensation by FINRA and are therefore subject to a six month lock-up pursuant to Rule 5110(g)(1) of FINRA. Additionally, National Securities Corporation has contractually agreed that it (or its permitted assignees under the Rule) will not sell, transfer, assign, pledge, or hypothecate this warrant or the securities underlying this warrant, nor will it engage in any hedging, short sale, derivative, put, or call transaction that would result in the effective economic disposition of this warrant or the underlying securities for a period of twelve months from the effective date of the offering.

In connection with its role as placement agent in our offering of our Series A preferred stock, we issued to National Securities Corporation and its designees a warrant to purchase shares of our common stock in an amount equal to 10% of the shares of common stock issuable upon conversion of 6,494,082 shares of our Series A preferred stock. This warrant is exercisable at $— per share (50% of the price of the common stock sold in this offering), expiring five years from June 26, 2017, the date the warrant was originally issued. In addition to the lock-up provisions summarized below, the warrant and the shares of common stock underlying the warrant have been deemed compensation by FINRA and are therefore subject to a six month lock-up pursuant to Rule 5110(g)(1) of FINRA. National Securities Corporation (or permitted assignees under the Rule) will not sell, transfer, assign, pledge, or hypothecate this warrant or the securities underlying this warrant, nor will it engage in any hedging, short sale, derivative, put, or call transaction that would result in the effective economic disposition of this warrant or the underlying securities for a period of six months from the effective date of the offering.

Pursuant to our engagement agreement with Liquid Patent Advisors, LLC, on May 4, 2017, we issued to Liquid Patent Advisors, LLC warrants to purchase up to 600,000 shares of our common stock, exercisable at $0.01 per share, expiring after a term of five years. The warrants were issued in consideration of Liquid Patent Advisors' provision of consulting services. The warrants provide its holders with certain registration and piggyback registration rights. The warrants also contain provisions for the adjustment of the exercise price and the number of shares issuable upon the exercise of the warrants in the event of certain stock dividends, stock splits, reorganizations, reclassifications, and consolidations. The principals of Liquid Patent Advisors hold investment banking positions with National Securities Corporation.

Lock-Up Agreements

In connection with our issuance of warrants to purchase shares of our common stock to Liquid Patent Advisors, LLC and National Securities Corporation, including the underwriter warrant to be issued to National Securities upon the completion of this offering, Liquid Patent Advisors and National Securities have agreed not to sell, transfer or pledge, or offering to do any of the same, directly or indirectly, the shares of common stock issuable upon exercise of such warrants for a period of 12 months following the close of this offering. We, all of our directors and officers and our former parent, Imprimis Pharmaceuticals, have agreed in connection with the present offering, that, without the prior written consent of National Securities Corporation, not to sell, transfer or pledge, or offer to do any of the same, directly or indirectly, any of our outstanding shares of common stock, for a period of 12 months following the close of this offering, except for 218,980 shares for which the lock-up period is 180 days. The holders of substantially all of our other common stock or securities exercisable for or convertible into our common stock outstanding immediately prior to this offering have agreed in connection with the present offering, that, without the prior written consent of National Securities Corporation, not to sell, transfer or pledge, or offer to do any of the same, directly or indirectly, any of our securities for a period 180 days following the close of this offering.

The number of shares of common stock outstanding upon the completion of this offering subject to the 180-day lock-up totals 218,980 shares, and the number of shares underlying options, warrants and restricted stock units subject to the 180-day lock-up totals 227,500 shares.

Other than in respect of the warrants issued or to be issued to Liquid Patent Advisors, LLC and National Securities Corporation, the underwriter may consent to an early release from the lock-up period if, in its opinion, the market for the common stock would not be adversely impacted by sales and in cases of a financial emergency of an officer, director or other stockholder. We are unaware of any security holder who intends to ask for consent to dispose of any of our equity securities during the relevant lock-up periods.

Indemnification

We have agreed to indemnify the several underwriters against certain liabilities, including liabilities under the Securities Act relating to losses or claims resulting from material misstatements in or omissions from this prospectus, the registration statement of which this prospectus is a part, certain free writing prospectuses that may be used in the offering and in any marketing materials used in connection with this offering and to contribute to payments the underwriters may be required to make in respect of those liabilities.

Short Positions and Penalty Bids

The underwriter may engage in over-allotment, syndicate covering transactions, and penalty bids or purchases for the purpose of pegging, fixing or maintaining the price of the common stock, in accordance with Regulation M under the Exchange Act.

- Over-allotment involves sales by the underwriter of shares in excess of the number of shares the underwriter is obligated to purchase, which creates a syndicate short position. The short position may be either a covered short position or a naked short position. In a covered short position, the number of shares over-allotted by an underwriter is not greater than the number of shares that it may purchase in the over-allotment option. In a naked short position, the number of shares involved is greater than the number of shares in the over-allotment option. The underwriter may close out any short position by either exercising its over-allotment option and/or purchasing shares in the open market.

- Syndicate covering transactions involve purchases of the common stock in the open market after the distribution has been completed in order to cover syndicate short positions. In determining the source of shares to close out the short position, the underwriter will consider, among other things, the price of shares available for purchase in the open market as compared to the price at which it may purchase shares through the over-allotment option. If an underwriter sells more shares than could be covered by the over-allotment option, a naked short position, the position can only be closed out by buying shares in the open market. A naked short position is more likely to be created if an underwriter is concerned that there could be downward pressure on the price of the shares in the open market after pricing that could adversely affect investors who purchase in the offering.

- Penalty bids permit an underwriter to reclaim a selling concession from a syndicate member when the shares originally sold by the syndicate member are purchased in a stabilizing or syndicate covering transaction to cover syndicate short positions.

These syndicate covering transactions and penalty bids may have the effect of raising or maintaining the market price of our common stock or preventing or retarding a decline in the market price of the common stock. As a result, the price of the common stock may be higher than the price that might otherwise exist in the open market. These transactions may be effected on the NASDAQ Capital Market, and if commenced, they may be discontinued at any time.

Neither we nor the underwriter make any representation or prediction as to the direction or magnitude of any effect that the transactions described above may have on the price of the common stock. In addition, neither we nor the underwriter make any representation that the underwriter will engage in these transactions or that any transaction, once commenced, will not be discontinued without notice.

Electronic Distribution

A prospectus in electronic format may be made available on the Internet sites or through other online services maintained by the underwriter, or by its affiliates. In those cases, prospective investors may view offering terms online and, depending upon the underwriter, prospective investors may be allowed to place orders online. The underwriter may agree with us to allocate a specific number of shares for sale to online brokerage account holders. Any such allocation for online distributions will be made by the underwriter on the same basis as other allocations.

Other than the prospectus in electronic format, the information on the underwriter's website and any information contained in any other website maintained by the underwriter is not part of the prospectus or the registration statement of which this prospectus forms a part, has not been approved and/or endorsed by us or the underwriter in its capacity as underwriter and should not be relied upon by investors.

The underwriter's compensation in connection with this offering is limited to the fees and expenses described above under "Underwriting Discount and Expenses."

LEGAL MATTERS

Greenberg Traurig, LLP, Irvine, California, will pass upon the validity of the shares of common stock offered by this prospectus. Certain legal matters will be passed upon for the underwriters by Jenner & Block, LLP, New York, New York.

EXPERTS

The financial statements as of December 31, 2017 and for the period from April 27, 2017 (inception) through December 31, 2017 included in this prospectus have been so included in reliance on the report (which contains an explanatory paragraph relating to the Company's ability to continue as a going concern as described in Note 2 to the financial statements) of KMJ Corbin & Company LLP, an independent registered public accounting firm, given on the authority of said firm as experts in auditing and accounting.

WHERE YOU CAN FIND MORE INFORMATION

We have filed with the SEC a registration statement on Form S-1 under the Securities Act that registers the shares of our common stock to be sold in this offering. Our SEC filings are and will become available to the public over the Internet at the SEC's website at www.sec.gov. You may also read and copy any document we file with the SEC at its public reference facilities at 100 F Street N.E., Washington, D.C. 20549. You can also obtain copies of the documents upon the payment of a duplicating fee to the SEC. Please call the SEC at 1-800-SEC-0330 for further information on the operation of the public reference facilities.

This prospectus does not contain all of the information set forth in the registration statement and the exhibits and schedules thereto. Some items are omitted in accordance with the rules and regulations of the SEC. You should review the information and exhibits included in the registration statement for further information about us and the securities we are offering. Statements in this prospectus concerning any document we filed as an exhibit to the registration statement or that we otherwise filed with the SEC are not intended to be comprehensive and are qualified by reference to these filings. You should review the complete document to evaluate these statements.

ETON PHARMACEUTICALS, INC.

INDEX TO FINANCIAL STATEMENTS

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and Shareholders of
Eton Pharmaceuticals, Inc.

Opinion on the Financial Statements

We have audited the accompanying balance sheet of Eton Pharmaceuticals, Inc. (the "Company") as of December 31, 2017, the related statements of operations, redeemable convertible preferred stock and shareholders' deficit and cash flows for the period from April 27, 2017 (inception) through December 31, 2017, and the related notes (collectively referred to as the "financial statements"). In our opinion, the financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2017, and the results of its operations and its cash flows for the period from April 27, 2017 (inception) through December 31, 2017, in conformity with accounting principles generally accepted in the United States of America.

Going Concern

The accompanying financial statements have been prepared assuming that the Company will continue as a going concern. As discussed in Note 2 to the financial statements, the Company has an accumulated deficit of $8,639 as of December 31, 2017, has negative operating cash flows during the period ended December 31, 2017 of $4,718, and the Company's redeemable convertible preferred stockholders can present a demand for payment of $20,055, plus all accrued but unpaid dividends, if the Company does not complete an initial public offering or alternative financing by December 31, 2018. These factors raise substantial doubt about the Company's ability to continue as a going concern. Management's plans in regard to these factors are also described in Note 2. The accompanying financial statements do not include any adjustments that might result from the outcome of this uncertainty.

Basis for Opinion

These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the Company's financial statements based on our audit. 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 audit in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. As part of our audit we are required to obtain an understanding of internal control over financial reporting but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion.

Our audit included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audit also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audit provides a reasonable basis for our opinion.

/s/ KMJ Corbin & Company LLP

We have served as the Company's auditor since 2018.

Costa Mesa, California
May 18, 2018

Eton Pharmaceuticals, Inc.
Balance Sheets
(in thousands, except share and per share amounts)

	December 31, 2017	March 31, 2018 (unaudited)	Pro Forma March 31, 2018 (unaudited)
Assets			
Current assets			
Cash and cash equivalents	$ 13,156	$ 11,215	$
Prepaid expenses	136	138	
Total current assets	**13,292**	**11,353**	
Other long-term assets, net	32	156	
Property and equipment, net	119	203	
Total assets	**$ 13,443**	**$ 11,712**	**$**
Liabilities, redeemable convertible preferred stock and shareholders' deficit			
Accounts payable	$ 539	$ 801	$
Accrued liabilities	254	146	
Total current liabilities	**793**	**947**	
Warrant liability	520	603	
Total liabilities	**1,313**	**1,550**	
Commitments and contingencies (Note 14)			
Redeemable convertible preferred stock – Series A			
$0.001 par value, 10,000,000 shares authorized as of December 31, 2017 and March 31, 2018 (unaudited); 6,685,082 shares issued and outstanding as of December 31, 2017 and March 31, 2018 (unaudited); aggregate liquidation preference of $20,698 and $20,994 as of December 31, 2017 and March 31, 2018 (unaudited), respectively; ___ shares issued and outstanding, pro forma as of March 31, 2018 (unaudited)	**$ 19,004**	**$ 19,710**	**$**
Shareholders' deficit			
Common stock $0.001 par value, 50,000,000 shares authorized as of December 31, 2017 and March 31, 2018 (unaudited); 6,000,000 shares issued and outstanding as of December 31, 2017; 6,218,980 shares issued and outstanding as of March 31, 2018 (unaudited); _____ shares issued and outstanding, pro forma as of March 31, 2018 (unaudited)	6	6	
Additional paid-in-capital	1,759	2,809	
Accumulated deficit	(8,639)	(12,363)	
Shareholders' deficit	**(6,874)**	**(9,548)**	
Total liabilities, redeemable convertible preferred stock and shareholders' deficit	**$ 13,443**	**$ 11,712**	**$**

See notes to financial statements

Eton Pharmaceuticals, Inc.
Statements of Operations
(in thousands, except per share amounts)

	Period From April 27, 2017 (Inception) Through December 31, 2017	Three Months Ended March 31, 2018 (unaudited)
Operating expenses:		
Research and development expenses	$ 3,930	$ 1,274
General and administrative expenses	3,220	1,690
Total operating expenses	**7,150**	**2,964**
Loss from operations	**(7,150)**	**(2,964)**
Other income (expense):		
Interest and other income, net	35	29
Change in fair value of warrant liability	(41)	(83)
Loss before income tax expense	**(7,156)**	**(3,018)**
Income tax expense	—	—
Net loss	**(7,156)**	**(3,018)**
Accrued dividends on redeemable convertible preferred stock	(643)	(296)
Deemed dividends for accretion of redeemable convertible preferred stock issuance costs	(840)	(410)
Net loss attributable to common shareholders	**$ (8,639)**	**$ (3,724)**
Net loss per share attributable to common shareholders – basic and diluted	**$ (2.50)**	**$ (1.05)**
Weighted average common shares outstanding – basic and diluted	3,453	3,551
Pro forma net loss per share attributable to common shareholders – basic and diluted (unaudited)	$	$
Pro forma weighted average common shares outstanding – basic and diluted (unaudited)		

See notes to financial statements

Eton Pharmaceuticals, Inc.
Statements of Redeemable Convertible Preferred Stock and Shareholders' Deficit
(in thousands, except share amounts)

	Redeemable Convertible Preferred Stock		Common Stock		Additional Paid-in-Capital	Accumulated Deficit	Total Shareholders' Deficit
	Shares	Amount	Shares	Amount			
Balances at April 27, 2017 (Inception)	—	$ —	—	$ —	$ —	$ —	$ —
Common stock issued to founder	—	—	3,500,000	4		—	4
Stock-based compensation expense	—	—	2,500,000	2	1,759	—	1,761
Issuance of Series A redeemable convertible preferred stock, net of issuance costs	6,685,082	17,521	—	—	—	—	—
Accrued dividends on redeemable convertible preferred stock	—	643	—	—	—	(643)	(643)
Deemed dividends for accretion of redeemable convertible stock issuance costs	—	840	—	—	—	(840)	(840)
Net loss	—	—	—	—	—	(7,156)	(7,156)
Balances at December 31, 2017	**6,685,082**	**19,004**	**6,000,000**	**6**	**1,759**	**(8,639)**	**(6,874)**
Stock-based compensation expense	—	—	218,980	—	1,050	—	1,050
Accrued dividends on redeemable convertible preferred stock	—	296	—	—	—	(296)	(296)
Deemed dividends for accretion of redeemable convertible stock issuance costs	—	410	—	—	—	(410)	(410)
Net loss	—	—	—	—	—	(3,018)	(3,018)
Balances at March 31, 2018 (unaudited)	**6,685,082**	**$ 19,710**	**6,218,980**	**$ 6**	**$ 2,809**	**$ (12,363)**	**$ (9,548)**

See notes to financial statements

Eton Pharmaceuticals, Inc.
Statements of Cash Flows
(in thousands)

	Period From April 27, 2017 (Inception) Through December 31, 2017	Three Months Ended March 31, 2018 (unaudited)
Cash flows from operating activities		
Net loss	$ (7,156)	$ (3,018)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization	13	10
Stock-based compensation expense	1,761	1,050
Change in fair value of warrant liability	41	83
Changes in operating assets and liabilities:		
Prepaid expenses and other assets	(170)	(129)
Accounts payable	539	262
Accrued liabilities	254	(108)
Net cash used in operating activities	**(4,718)**	**(1,850)**
Cash used in investing activities		
Purchases of property and equipment	**(130)**	**(91)**
Cash flows from financing activities		
Proceeds from issuance of redeemable convertible preferred stock, net of issuance costs	18,000	—
Proceeds from issuance of common stock	4	—
Net cash provided by financing activities	**18,004**	—
Change in cash and cash equivalents	**13,156**	**(1,941)**
Cash and cash equivalents – beginning of period	—	13,156
Cash and cash equivalents – end of period	**$ 13,156**	**$ 11,215**
Supplemental disclosure of cash flow information		
Cash paid for interest	$ —	$ —
Cash paid for income taxes	$ —	$ —
Supplemental disclosures of non-cash financing activities		
Accrued dividends on redeemable convertible preferred stock	$ (643)	$ (296)
Deemed dividends for accretion of redeemable convertible preferred stock issuance costs	$ (840)	$ (410)
Common stock warrant liability issued with redeemable convertible preferred stock financing	$ (479)	$ —

See notes to financial statements

Note 1 – Company Overview

Eton Pharmaceuticals, Inc. ("Eton" or the "Company") was incorporated as a Delaware "C" corporation on April 27, 2017 and was initially set up as a wholly-owned subsidiary of Imprimis Pharmaceuticals, Inc. ("Imprimis").

Eton raised $20.1 million in start-up capital through the sale of its Series A redeemable convertible preferred stock ("Series A Preferred") in June 2017 (see Note 6) and a separate management team was then established for Eton with its corporate offices located in Deer Park, Illinois. Eton is a specialty pharmaceutical company focused on developing and commercializing prescription drug products utilizing the U.S. Food and Drug Administration's (the "FDA") 505(b)(2) regulatory pathway. The Company's business model is to develop proprietary innovative product candidates that offer commercial and/or functional advantages to currently available alternatives.

The Company is subject to risks and uncertainties common to early-stage companies in the pharmaceuticals industry, including, but not limited to, development by competitors of new technological innovations, dependence on key personnel, protection of proprietary technology, compliance with government regulations and the ability to secure additional capital to fund operations. Product candidates currently under development may require significant additional research and development efforts, including extensive preclinical and clinical testing and regulatory approval prior to commercialization. These efforts require significant amounts of additional capital, adequate personnel and infrastructure and extensive compliance-reporting capabilities. Even if the Company's drug development efforts are successful, it is uncertain when, if ever, the Company will realize significant revenue from product sales.

Note 2 – Liquidity Considerations and Going Concern

The accompanying financial statements have been prepared assuming that the Company will continue as a going concern.

As of December 31, 2017 and March 31, 2018 (unaudited) the Company had an accumulated deficit of $8,639 and $12,363, respectively. In addition, for the period from April 27, 2017 (inception) to December 31, 2017 and for the three months ended March 31, 2018 (unaudited) the Company had net cash used in operating activities of $4,718 and $1,850, respectively. Per the terms of its Series A Preferred offering, the Company is obligated to pursue an initial public offering ("IPO") or another alternate financing approved by the Series A Preferred shareholders that must be completed by December 31, 2018. If the IPO or alternate financing is not completed by December 31, 2018, the Series A Preferred shareholders can present a demand for payment of the $20,055 of initial proceeds from the Series A Preferred capital raise plus accrued dividends, which are cumulative and accrue at an annual rate of 6.00%. The Company cannot guarantee a successful completion of its IPO or alternate financing at this time, which raises substantial doubt about the Company's ability to continue as a going concern. The future of the Company is dependent upon additional financing and revenue to fund its research and development activities, seek regulatory approvals for its product candidates and fund required ongoing general and administrative expenses.

In the event the Company does not complete an IPO, the Company expects to seek additional funding through private equity financings, debt financings, or other financial arrangements. The Company may not be able to obtain financing on acceptable terms, or at all, and the terms of any financing may adversely affect the holdings or the rights of the Company's stockholders. If the Company is unable to obtain funding, the Company could be forced to delay, reduce or eliminate some or all of its product research and development programs or commercialization efforts, which could adversely affect its business prospects.

The financial statements do not include any adjustments to reflect the possible effects on the recoverability and classification of recorded assets and liabilities that may be necessary in the event the Company cannot continue as a going concern.

Note 3 – Summary of Significant Accounting Policies

Basis of Presentation

The Company has prepared the accompanying financial statements in accordance with accounting principles generally accepted in the United States of America ("U.S. GAAP").

Unaudited Interim Financial Information

The accompanying balance sheet as of March 31, 2018, and the statements of operations, cash flows and redeemable convertible preferred stock and shareholders' deficit for the three months ended March 31, 2018 are unaudited. The unaudited interim financial statements have been prepared on the same basis as the audited financial statements and, in the opinion of management, reflect all adjustments necessary for the fair presentation of the Company's financial position as of March 31, 2018, the results of its operations and its cash flows for the three months ended March 31, 2018. The financial data and other information disclosed in these notes related to the three months ended March 31, 2018 are also unaudited. The results for the three months ended March 31, 2018 are not necessarily indicative of results to be expected for the year ending December 31, 2018, any other interim periods, or any future year or period.

Note 3 – Summary of Significant Accounting Policies (cont.)

Unaudited Pro Forma Information

The accompanying unaudited pro forma balance sheet as of March 31, 2018 has been prepared to give effect, upon the closing of a qualified IPO, to the automatic conversion of all outstanding shares of the Series A Preferred into shares of the Company's common stock as if the Company's proposed IPO had occurred on March 31, 2018. In addition, the exercise price of the warrant that has been recorded as a liability has been assumed to be fixed as if the proposed IPO had occurred on March 31, 2018, resulting in the reclassification of the warrant liability to equity.

In the accompanying statements of operations, the unaudited pro forma basic and diluted net loss per share attributable to common shareholders for the period ended December 31, 2017 and the three months ended March 31, 2018 have been prepared to give effect, upon the closing of a qualified IPO, to the automatic conversion of all outstanding shares of the Series A Preferred into shares of the Company's common stock as if the proposed IPO had occurred on the issuance date of the Series A Preferred. In addition, the exercise price of the warrant that has been recorded as a liability has been assumed to be fixed as if the proposed IPO had occurred on the issuance date of the Series A Preferred, resulting in the reclassification of the warrant liability to equity.

Use of Estimates

The preparation of financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, the disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenue and expenses during the reporting periods. Significant estimates and assumptions reflected in these financial statements include, but are not limited to, the accrual of research and development expenses and the valuation of common stock, stock options, warrants and derivative instruments. Estimates are periodically reviewed in light of changes in circumstances, facts and experience. Changes in estimates are recorded in the period in which they become known. Actual results could differ from those estimates or assumptions.

Segment Information

The Company operates the business on the basis of a single reportable segment, which is the business of developing and commercializing prescription drug products. The Company's chief operating decision-maker is the Chief Executive Officer, who evaluates the Company as a single operating segment.

Cash and Cash Equivalents

The Company considers all highly liquid investments with an original maturity of three months or less to be cash equivalents. All cash and cash equivalents are held in United States financial institutions. Cash equivalents consist of an interest-bearing checking account. From time to time, amounts deposited exceed federally insured limits. The Company believes the associated credit risk to be minimal.

Property and Equipment

Property and equipment are stated at cost. Depreciation of property and equipment is computed utilizing the straight-line method based on the following estimated useful lives. Computer software and hardware is depreciated over three years. Furniture and fixtures is depreciated over five years. Leasehold improvements are amortized over their estimated useful lives or the remaining lease term, whichever is shorter.

Maintenance and repairs are charged to expense as incurred, while renewals and improvements are capitalized.

Deferred Offering Costs

The Company capitalizes certain legal, professional accounting and other third-party fees that are directly associated with in-process equity financings as deferred offering costs until such financings are consummated. After consummation of the equity financing, these costs are recorded in shareholders' equity (deficit) as a reduction of proceeds generated as a result of the offering. Should the planned equity financing be abandoned, the deferred offering costs will be expensed immediately as a charge to operating expenses in the statements of operations. The Company recorded deferred offering costs of $0 and $110 as of December 31, 2017 and March 31, 2018 (unaudited), respectively.

Impairment of Long-Lived Assets

Long-lived assets are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Recoverability of assets to be held and used is measured by a comparison of the carrying amount of an asset to estimated undiscounted future cash flows expected to be generated by the asset. If the carrying amount of an asset exceeds its estimated future cash flows, an impairment charge is recognized in the Company's statement of operations for the amount by which the carrying amount of the asset exceeds the fair value of the asset. To date, the Company has not recorded any impairment of its long-lived assets.

Classification and Accretion of Redeemable Convertible Preferred Stock

The Company has classified the Series A Preferred outside of shareholders' deficit because the shares contain certain redemption features that are not solely within the control of the Company. The carrying value of the Series A Preferred is accreted to its redemption value from the date of issuance through the earliest date of redemption.

Note 3 – Summary of Significant Accounting Policies (cont.)

Leases

Leases are categorized as either operating or capital leases at inception. Operating lease costs are recognized on a straight-line basis over the term of the lease. An asset and a corresponding liability for the capital lease obligation are established for the cost of capital leases. The capital lease obligation is amortized over the life of the lease. The Company has not had any capital leases since its inception.

Patent Costs

All patent-related costs incurred in connection with filing and prosecuting patent applications are expensed as incurred due to the uncertainty about the recovery of the expenditure. Amounts incurred are classified as general and administrative expenses.

Significant Suppliers

The Company is dependent on third-party vendors for its product candidates. In particular, the Company relies, and expects to continue to rely, on a small number of vendors to manufacture key chemicals and process its product candidates for its development programs. These programs could be adversely affected by a significant interruption in the manufacturing process.

Research and Development Expenses

Research and development ("R&D") expenses include both internal R&D activities and external contracted services. Internal R&D activity expenses include salaries, benefits, and stock-based compensation and other costs to support the Company's R&D operations. External contracted services include product development efforts including certain product licensor milestone payments, clinical trial activities, manufacturing and control-related activities and regulatory costs. R&D expenses are charged to operations as incurred. The Company reviews and accrues R&D expenses based on services performed and relies upon estimates of those costs applicable to the stage of completion of each project. Significant judgments and estimates are made in determining the accrued balances at the end of any reporting period. Actual results could differ from the Company's estimates.

Upfront payments and milestone payments made for the licensing of technology are expensed as research and development in the period in which they are incurred. Nonrefundable advance payments for goods or services to be received in the future for use in research and development activities are recorded as prepaid expenses and are expensed as the related goods are delivered or the services are performed.

Earnings (Loss) Per Share

Basic net loss per common share is computed by dividing net loss attributable to common shareholders for the period by the weighted average number of common shares outstanding during the period. Diluted net loss per share is computed by dividing the net loss attributable to common shareholders for the period by the weighted average number of common and common equivalent shares, such as Series A Preferred, stock options and warrants, outstanding during the period. Common stock equivalents are excluded from the computation where their inclusion would be anti-dilutive. No such adjustments were made for 2017 or 2018 as the Company reported a net loss for the period ended December 31, 2017 and for the three months ended March 31, 2018 (unaudited) as including the effects of common stock equivalents in the diluted EPS calculation would have been antidilutive (See Note 10).

Warrant Liability

The Company estimates the fair value of certain warrants at each reporting period using Level 3 inputs. The estimates in valuation models are based, in part, on subjective assumptions, including but not limited to stock price volatility, the expected life of the warrants, the risk-free interest rate and the exercise price of the warrants, and could differ materially in the future. Changes in the fair value of the warrant liability during the period are recorded as a component of other income (expense). The Company will continue to adjust the fair value of the warrant liability at the end of each reporting period for changes in fair value until the earlier of the exercise or expiration of the applicable warrants.

Note 3 – Summary of Significant Accounting Policies (cont.)

Stock-Based Compensation

The Company accounts for stock-based compensation under the provisions of the Financial Accounting Standards Board (the "FASB") Accounting Standards Codification ("ASC") - 718 Compensation – Stock Compensation. The guidance under ASC 718 requires companies to estimate the fair value of the stock-based compensation awards on the date of grant for employees and directors and record expense over the related service periods, which are generally the vesting period of the equity awards. Awards for consultants are accounted for under ASC 505-50 - Equity Based Payments to Non-Employees. Compensation expense is recognized over the period during which services are rendered by such consultants and non-employees until completed. At the end of each financial reporting period prior to completion of the service, the fair value of these awards is remeasured using the then-current fair value of the Company's common stock and updated assumption inputs in the Black-Scholes option-pricing model ("BSM").

The Company estimates the fair value of stock-based option awards to its employees and directors using the BSM. The BSM requires the input of subjective assumptions, including the expected stock price volatility, the calculation of expected term, forfeitures and the fair value of the underlying common stock on the date of grant, among other inputs. The risk-free interest rate was determined from the implied yields for zero-coupon U.S. government issues with a remaining term approximating the expected life of the options or warrants. Dividends on common stock are assumed to be zero for the BSM valuation of the stock options. The expected term of stock options granted is based on vesting periods and the contractual life of the options. Expected volatilities are based on comparable companies' historical volatility, which management believes represents the most accurate basis for estimating expected future volatility under the current conditions. The Company accounts for forfeitures as they occur.

Income Taxes

As part of the process of preparing the Company's financial statements, the Company must estimate the actual current tax liabilities and assess temporary differences resulting from differing treatment of items for tax and accounting purposes. These differences result in deferred tax assets and liabilities, which are included within the balance sheet. The Company must assess the likelihood that the deferred tax assets will be recovered from future taxable income and, to the extent the Company believes that recovery is not likely, a valuation allowance must be established. To the extent the Company establishes a valuation allowance or increase or decrease to this allowance in a period, the impact will be included in income tax expense in the statement of operations. As of December 31, 2017 and March 31, 2018 (unaudited) the Company had established a 100% valuation reserve against its deferred tax assets.

The Company accounts for income taxes under the provisions of FASB ASC 740 - Income Taxes. As of December 31, 2017, there was no unrecognized tax benefits included in the balance sheet that would, if recognized, affect the effective tax rate. The Company's practice is to recognize interest and penalties related to income tax matters in income tax expense. The Company had no accrual for interest or penalties in its balance sheet at December 31, 2017 or March 31, 2018 (unaudited) and has not recognized interest and penalties in the statements of operations for the period ended December 31, 2017 or for the three months ended March 31, 2018 (unaudited). As of March 31, 2018 (unaudited), the Company is subject to taxation in the United States and Illinois. The Company's tax losses from 2017 and 2018 (unaudited) are subject to examination by the federal and state tax authorities due to the carryforward of unutilized net operating losses.

The recently enacted Tax Cuts and Jobs Act (the "Tax Act") significantly revised U.S. corporate income tax law by, among other things, reducing the corporate income tax rate to 21% and implementing a modified territorial tax system. In response to the Tax Act, the SEC issued Staff Accounting Bulletin ("SAB") 118 which allows issuers to recognize provisional estimates of the impact of the Tax Act in their financial statements and adjust in the period in which the estimate becomes finalized, or in circumstances where estimates cannot be made, to disclose and recognize within a one-year measurement period.

Implementation of the Tax Act resulted in an approximate $733 charge for the revaluation of the Company's net deferred tax assets offset by a corresponding $733 reduction in the valuation reserve for income taxes during the period ended December 31, 2017. No impact of the Tax Act has been recorded in 2018 (unaudited). In reaching these estimates, the Company utilized all available guidance and notices issued by the U.S. Department of the Treasury. These amounts are to be considered provisional and are not currently able to be finalized given the complexity of the underlying calculations. The Company will update and conclude its accounting as additional information is obtained, which is contingent on the timing of issuance of regulatory guidance.

Current accounting standards include guidance on the accounting for uncertainty in income taxes recognized in the financial statements. Such standards also prescribe a recognition threshold and measurement model for the financial statement recognition of a tax position taken, or expected to be taken, and provides guidance on derecognition, classification, interest and penalties, accounting in interim periods, disclosure and transition. The Company believes that the ultimate deductibility of all tax positions is highly certain, although there is uncertainty about the timing of such deductibility. As a result, no liability for uncertain tax positions was recorded as of December 31, 2017 or March 31, 2018 (unaudited).

Note 3 – Summary of Significant Accounting Policies (cont.)

Fair Value Measurements

We measure certain of our assets and liabilities at fair value. Fair value represents the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. Fair value accounting requires characterization of the inputs used to measure fair value into a three-level fair value hierarchy as follows:

Level 1—Inputs based on quoted prices in active markets for identical assets or liabilities. An active market is a market in which transactions occur with sufficient frequency and volume to provide pricing information on an ongoing basis.

Level 2—Observable inputs that reflect the assumptions market participants would use in pricing the asset or liability developed based on market data obtained from sources independent from the entity.

Level 3—Unobservable inputs that reflect the entity's own assumptions about the assumptions market participants would use in pricing the asset or liability developed based on the best information available.

Fair value measurements are classified based on the lowest level of input that is significant to the measurement. The Company's assessment of the significance of a particular input to the fair value measurement requires judgment, which may affect the valuation of the assets and liabilities and their placement within the fair value hierarchy levels. The determination of the fair values stated below takes into account the market for the Company's financials, assets and liabilities, the associated credit risk and other factors as required. The Company considers active markets as those in which transactions for the assets or liabilities occur in sufficient frequency and volume to provide pricing information on an ongoing basis.

The carrying amounts of cash and cash equivalents, accounts payable and accrued liabilities approximate their fair values due to the short-term maturities of these instruments.

The fair values of the Company's warrant liability at inception and for subsequent mark-to-market fair value measurements are based on management's valuation model and expectations with respect to the method and timing of settlement. The Company has determined that the warrant liability fair values are classified as Level 3 measurements within the fair value hierarchy.

Impact of New Accounting Pronouncements

In July 2017, FASB issued ASU No. 2017-11 - Earnings Per Share (Topic 260), Distinguishing Liabilities from Equity (Topic 480); Derivatives and Hedging (Topic 815), and was issued in two parts, Part I, Accounting for Certain Financial Instruments with Down Round Features and Part II, Replacement of the Indefinite Deferral for Mandatorily Redeemable Financial Instruments of Certain Nonpublic Entities and Certain Mandatorily Redeemable Noncontrolling Interests with a Scope Exception. Part I of ASU No. 2017-11 addresses the classification analysis of certain equity-linked financial instruments (or embedded features) with down round features. When determining whether certain financial instruments should be classified as liabilities or equity instruments, a down round feature no longer precludes equity classification when assessing whether the instrument is indexed to an entity's own stock. The amendments also clarify existing disclosure requirements for equity-classified instruments. As a result, a freestanding equity-linked financial instrument (or embedded conversion option) no longer would be accounted for as a derivative liability at fair value as a result of the existence of a down round feature. For freestanding equity classified financial instruments, the amendments require entities that present earnings per share in accordance with Topic 260 to recognize the effect of the down round feature when it is triggered. That effect is treated as a dividend and as a reduction of income available to common shareholders in basic EPS. The amendments in Part II of ASU 2017-11 recharacterize the indefinite deferral of certain provisions of Topic 480 that now are presented as pending content in the codification, to a scope exception. Part II amendments do not have an accounting effect. ASU 2017-11 is effective for annual and interim periods beginning after December 15, 2018, with early adoption permitted. The Company has early adopted this standard and all instruments with down round provisions are classified within equity.

In March 2016, the FASB issued ASU 2016-09 - Compensation - Stock Compensation, which simplifies the accounting for the tax effects related to stock-based compensation, including adjustments to how excess tax benefits and a company's payments for tax withholdings should be classified, amongst other items. ASU 2016-09 is effective for financial statements issued for fiscal years beginning after December 15, 2016, and interim periods within those fiscal years with early adoption permitted. ASU 2016-09 was adopted by the Company for the period beginning April 27, 2017 and did not have an impact on the results of operations or cash flows.

Note 3 – Summary of Significant Accounting Policies (cont.)

In February 2016, the FASB issued ASU 2016-02 (Topic 842) – Leases, which requires the lease rights and obligations arising from lease contracts, including existing and new arrangements, with terms more than 12 months to be recognized as assets and liabilities on the balance sheet. Recognition, measurement and presentation of expenses will depend on classification as a finance or operating lease. The amendments also require certain quantitative and qualitative disclosures about leasing arrangements. ASU 2016-02 is effective for reporting periods beginning after December 15, 2018 with early adoption permitted. While the Company is still evaluating ASU 2016-02, the Company expects the adoption of ASU 2016-02 will not have a material effect on the Company's financial condition from the recognition of the lease rights and obligations as assets and liabilities. The Company is currently evaluating ASU 2016-02 to determine the effect on the Company's results of operations and cash flows.

In May 2014, the FASB issued ASU No. 2014-09, Revenue from Contracts with Customers (Topic 606), which supersedes existing revenue recognition guidance under GAAP. The standard's core principle is that a company will recognize revenue when it transfers promised goods or services to customers in an amount that reflects the consideration to which the Company expects to be entitled in exchange for those goods or services. The standard defines a five-step process to achieve this principle and will require companies to use more judgment and make more estimates than under the current guidance. The Company expects that these judgments and estimates will include identifying performance obligations in the customer contract, estimating the amount of variable consideration to include in the transaction price and allocating the transaction price to each separate performance obligation. ASU 2014-09 also requires additional disclosure about the nature, amount, timing and uncertainty of revenue and cash flows arising from customer contracts. In August 2015, the FASB issued ASU 2015-14, Revenue from Contracts with Customers (Topic 606): Deferral of the Effective Date, which delays the effective date of ASU 2014-09 such that the standard is effective for public entities for annual periods beginning after December 15, 2017, including interim periods within those fiscal years. Early adoption of the standard is permitted for annual periods beginning after December 15, 2016, including interim periods within those fiscal years. In March 2016, the FASB issued ASU No. 2016-08, Revenue from Contracts with Customers (Topic 606): Principal versus Agent Considerations, which further clarifies the implementation guidance on principal versus agent considerations in ASU 2014-09. In April 2016, the FASB issued ASU No. 2016-10, Revenue from Contracts with Customers (Topic 606): Identifying Performance Obligations and Licensing, clarifying the implementation guidance on identifying performance obligations and licensing. Specifically, the amendments in this update reduce the cost and complexity of identifying promised goods or services and improve the guidance for determining whether promises are separately identifiable. The amendments in this update also provide implementation guidance on determining whether an entity's promise to grant a license provides a customer with either a right to use the entity's intellectual property (which is satisfied at a point in time) or a right to access the entity's intellectual property (which is satisfied over time). In May 2016, the FASB issued ASU No. 2016-12, Revenue from Contracts with Customers (Topic 606): Narrow-Scope Improvements and Practical Expedients, which clarifies the objective of the collectability criterion, presentation of taxes collected from customers, non-cash consideration, contract modifications at transition, completed contracts at transition and how guidance in ASU 2014-09 is retrospectively applied. In December 2016, the FASB issued ASU No. 2016-20, Technical Corrections and Improvements to Topic 606, Revenue from Contracts with Customers, which amends narrow aspects of the guidance in ASU 2014-09. ASU 2016-08, ASU 2016-10, ASU 2016-12 and ASU 2016-20 have the same effective dates and transition requirements as ASU 2014-09. In September 2017, the FASB issued ASU No. 2017-13, Revenue Recognition (Topic 605), Revenue from Contracts with Customers (Topic 606), Leases (Topic 840), and Leases (Topic 842), which provides additional clarification and implementation guidance related to ASU 2014-09 and has the same effective date and transition requirements as ASU 2014-09. The adoption of these standards did not have an impact on the Company's financial position, results of operations or cash flows as the Company does not currently have any revenue-generating arrangements.

In June 2018, the FASB issued ASU 2018-07, Compensation—Stock Compensation (Topic 718): Improvements to Nonemployee Share-Based Payment Accounting, which simplifies the accounting for nonemployee share-based payment transactions. The amendments specify that Topic 718 applies to all share-based payment transactions in which a grantor acquires goods or services to be used or consumed in a grantor's own operations by issuing share-based payment awards. ASU 2018-07 will be effective for financial statements issued for fiscal years beginning after December 15, 2018, and interim periods within those fiscal years with early adoption permitted (but no sooner than the adoption of Topic 606). The Company is currently evaluating ASU 2018-07 to determine the effect on the Company's financial statements.

Note 4 - Fair Value of Financial Assets and Liabilities

The following table presents information about the Company's financial assets and liabilities measured at fair value on a recurring basis and indicates the level of the fair value hierarchy utilized to determine such fair values (in thousands):

	Fair Value Measurements as of December 31, 2017 Using:			
	Level 1	**Level 2**	**Level 3**	**Total**
Liabilities:				
Warrant liability	$ —	$ —	$ 520	$ 520

	Fair Value Measurements as of March 31, 2018 (unaudited) Using:			
	Level 1	**Level 2**	**Level 3**	**Total**
Liabilities:				
Warrant liability	$ —	$ —	$ 603	$ 603

During the periods ended December 31, 2017 and March 31, 2018 (unaudited), there were no transfers between Level 1, Level 2 and Level 3.

Valuation of Warrant Liability

The warrant liability in the table above is composed of the fair value of a warrant to purchase shares of common stock that were issued to the Company's placement agent in connection with the Series A Preferred offering (see Note 6). The fair value of the warrant liability was determined based on significant inputs not observable in the market, which represents a Level 3 measurement within the fair value hierarchy. The Company used the BSM, which incorporates assumptions and estimates, to value the warrant. Estimates and assumptions impacting the fair value measurement include the fair value per share of the underlying shares of common stock, the remaining contractual term of the warrant, risk-free interest rate, expected dividend yield and expected volatility of the price of the underlying common stock. The Company determined the fair value per share of the underlying common stock by taking into consideration the most recent sales of its preferred stock, results obtained from third-party valuations and additional factors that are deemed relevant. The Company historically has been a private company and lacks company-specific historical and implied volatility information of its common stock. Therefore, it estimates its expected stock volatility based on the historical volatility of publicly traded peer companies for a term equal to the remaining contractual term of the warrant. The risk-free interest rate is determined by reference to the U.S. Treasury yield curve for time periods approximately equal to the remaining contractual term of the warrant. The Company estimated a 0% expected dividend yield based on the fact that the Company has never paid or declared dividends and does not intend to do so in the foreseeable future.

The following table provides a roll forward of the aggregate fair values of the Company's warrant liability, for which fair value is determined using Level 3 inputs:

	Period From April 27, 2017 (Inception) Through December 31, 2017	**Three Months Ended March 31, 2018 (unaudited)**
Balance as of the beginning of the period	**$ —**	**$ 520**
Initial fair value of warrant liability	479	—
Change in fair value	41	83
Balance as of the end of the period	**$ 520**	**$ 603**

(in thousands, except share and per share amounts)

Note 5 – Property and Equipment

Property and equipment consist of the following:

	December 31, 2017	March 31, 2018 (unaudited)
Computer hardware and software	$ 46	$ 46
Furniture and fixtures	42	42
Leasehold improvements	42	42
Construction in progress	—	91
	130	221
Less: accumulated depreciation	(11)	(18)
Property and equipment, net	**$ 119**	**$ 203**

Depreciation expense for the period ended December 31, 2017 and for the three months ended March 31, 2018 (unaudited) was $11 and $7, respectively.

Note 6 – Redeemable Convertible Preferred Stock – Series A

The Company has 10,000,000 authorized shares of $0.001 par value preferred stock as per its Certificate of Incorporation. In June 2017, the Company issued 6,685,082 Series A Preferred at a price of $3.00 per share and all shares remain outstanding as of December 31, 2017. The gross proceeds were $20,055 from the Series A Preferred stock offering. The Series A Preferred have the same voting rights as the Company's common shares and bear a cumulative non-compounding dividend at a rate of 6.00% per annum on the original $3.00 per share issue price. The Series A Preferred shareholders or their permitted transferees, are entitled to rights with respect to the registration under the Securities Act of their shares that are converted to common stock, including demand registration rights and piggyback registration rights. These rights are provided under the terms of a registration rights agreement between the Company and the investors.

In the event that an IPO is not completed or alternative financing is not raised by December 31, 2018, the Company would be obligated to redeem the Series A Preferred, in cash, subject to extension upon the consent of the holders of a majority of the outstanding Series A Preferred. Upon any liquidation, dissolution, or winding-up of the Company, the holders of shares of Series A Preferred are entitled to receive a preferential distribution out of the assets available for distribution, including any accrued and unpaid dividends, before any distribution is made to shareholders of the Company's common stock. The Series A Preferred shareholders do not participate in sharing earnings or losses of the Company. As of December 31, 2017, the liquidation value of the mezzanine Series A Preferred was $20,698 which consists of the issuance amount of $20,055 plus accrued dividends of $643. As of March 31, 2018 (unaudited), the liquidation value of the mezzanine Series A Preferred was $20,994 which consists of the issuance amount of $20,055 plus accrued dividends of $939.

The Series A Preferred will automatically convert to common shares if the Company raises additional equity capital financing via an IPO or possible alternate financings that are approved by a majority of the Series A Preferred shareholders. The conversion share calculation is based on the $3.00 initial issue price for the Series A Preferred plus any accrued but unpaid dividends and will automatically convert into shares of the Company's common stock using a stated divisor conversion price equal to 50% of the IPO price to the public, or 50% of the share price for the approved alternate financing, as applicable, provided that the divisor conversion price shall not be less than $2.25 per share or greater than $3.00 per share. In addition, the Series A Preferred plus any accrued and unpaid dividends are also convertible into shares of Company's common stock at the option of the preferred shareholders at a divisor conversion rate of $3.00 per share at any point up until ten days prior to a capital financing transaction by the Company. In accordance with relevant accounting literature, since the terms of the conversion option do not permit the Company to compute the additional number of shares that it would need to issue upon conversion of the Series A Preferred if the contingent event occurs, the Company will record the beneficial conversion amount as a deemed dividend only if the contingent event occurs.

As a result of the Series A Preferred having a possible cash redemption feature in the event that an IPO or alternate financing is not available by December 31, 2018, the Series A Preferred is classified as temporary equity and not included as part of Company's Shareholders' Deficit. In accordance with that classification, the $2,534 of fees associated with the Series A Preferred offering are being ratably accreted as a deemed dividend using the effective interest method over its expected term.

(in thousands, except share and per share amounts)

Note 6 – Redeemable Convertible Preferred Stock – Series A (cont.)

The following is a reconciliation of the carrying value of the Series A Preferred:

	December 31, 2017	March 31, 2018 (unaudited)
Gross proceeds from Series A Preferred offering	$ 20,055	$ 20,055
Issuance costs - cash	(2,055)	(2,055)
Issuance costs – common stock warrants	(479)	(479)
Accrued dividends on Series A Preferred	643	939
Deemed dividends for accretion of Series A Preferred issuance costs	840	1,250
Balance as of the end of the period	**$ 19,004**	**$ 19,710**

Note 7 – Common Stock

The Company has 50,000,000 authorized shares of $0.001 par value common stock as per its Certificate of Incorporation. In May 2017, the Company issued 3,500,000 shares of its common stock to Imprimis, 1,500,000 shares of restricted stock to certain executives of Imprimis and 1,000,000 shares of restricted stock to the Chief Executive Officer of the Company. On January 1, 2018 (unaudited), the Company issued 54,745 restricted shares of its common stock to each of its four outside directors (218,980 total shares) as part of their compensation for board service to the Company in 2018. The restricted shares for the Imprimis executives vest over a 12-month period, the restricted shares to the Company's Chief Executive Officer vest over a 24-month period and the restricted shares to the outside directors vest 25% at each quarter-end in 2018 and are 100% vested as of December 31, 2018. The Company accounted for the restricted stock awards in accordance with ASC 718 or ASC 505-50 and for the period April 27, 2017 (inception) through December 31, 2017 and for the three months ended March 31, 2018 (unaudited) the Company recorded $1,403 and $863, respectively, in stock-based compensation expense for these restricted stock awards (see Note 9).

Note 8 – Common Stock Warrants

In May 2017, the Company issued a warrant to purchase 600,000 shares of its common stock to consultants for business strategy and intellectual property advisory services. The warrant vested at issuance in May 2017 and has a $0.01 exercise price per warrant share and expires five years from the date of issuance. The Company used the BSM to value the warrant and the fair value at the date of issuance was $121 based on an expected term of five years, volatility of 85%, a risk-free interest rate of 1.8% and a 0% rate on expected dividends. The $121 amount for the consulting warrants was expensed as a component of the Company's general and administrative expenses for the period ended December 31, 2017.

In conjunction with the closing of the Series A Preferred offering in June 2017 (See Note 6), the Company issued a warrant to purchase 649,409 shares of its common stock to the placement agent at an exercise price of $3.00 per share, provided, however, upon the conversion of the Series A Preferred the warrant shall adjust to entitle the holder to purchase shares of common stock equal to 10% of the shares of common stock issuable upon conversion of the Series A Preferred and the exercise price shall adjust to the conversion price of the Series A Preferred. This warrant vested at issuance in June 2017. The Company used the BSM to value the warrant and the fair value at the date of issuance was $479. The number of common shares issuable upon the conversion of this warrant is not fixed as it can vary by a factor of 1.000 to 1.333 common shares per warrant share in accordance with the IPO price, and the Company has therefore considered the warrant to be a derivative instrument. The $479 amount was recorded as a component of the issuance costs for the Series A Preferred. As of December 31, 2017, the fair value of the warrants was $520 and the $41 increase in value was recorded as a component of other income and expense. As of March 31, 2018 (unaudited), the fair value of the warrants was $603 and the $83 increase in value was recorded as a component of other income and expense. The fair value assumptions included an expected term of five years, expected volatility of 85%, a risk-free interest rate of 1.9% and estimate of the conversion rate. These warrants are classified as warrant liability on the Company's balance sheets. The weighted average exercise price of the outstanding warrants as of both December 31, 2017 and March 31, 2018 (unaudited) was $1.56 per share.

The holders of these warrants or their permitted transferees, are entitled with rights with respect to the registration under the Securities Act of their shares that are converted to common stock, including demand registration rights and piggyback registration rights. These rights are provided under the terms of a registration rights agreement between the Company and the investors.

(in thousands, except share and per share amounts)

Note 9 – Share-Based Payment Awards

The Company's Board of Directors approved the Eton Pharmaceuticals, Inc. 2017 Equity Incentive Plan in May 2017 (the "Plan") which authorizes the issuance of up to 5,000,000 shares of its common stock. The Company has granted under the Plan restricted stock awards, stock options and restricted stock units for its common stock as detailed in the tables below. The number of shares available for future issuance under the Plan as of December 31, 2017 and as of March 31, 2018 (unaudited) was 1,310,000 and 1,091,020, respectively.

Shares that are expired, terminated, surrendered or canceled without having been fully exercised will be available for future awards under the Plan. The exercise price for stock options granted is not less than the fair value of common shares as determined by the board of directors as of the date of grant. The Company's board of directors values the Company's common stock, taking into consideration its most recently available valuation of common stock performed by third parties as well as additional factors which may have changed since the date of the most recent contemporaneous valuation through the date of grant.

In May 2017, the Company issued 1,500,000 shares of restricted stock to certain executives of Imprimis and 1,000,000 shares of restricted stock to the Chief Executive Officer of the Company. On January 1, 2018 (unaudited), the Company issued 54,745 restricted shares of its common stock to each of its four outside directors (218,980 total shares). The restricted shares for the Imprimis executives vest over a 12-month period, the restricted shares to the Company's Chief Executive Officer vest over a 24-month period and the restricted shares to the outside directors vest 25% at each quarter-end in 2018 and are 100% vested at December 31, 2018.

To date, all stock options issued have been non-qualified stock options ("NQSO's") and the exercise prices were set at the fair value for the shares at the dates of grant. Options typically have a ten-year life except for 50,000 of options awards to product consultants that expire within five years if the Company is not able to file certain product submissions to the FDA prior to the five-year expiration period. Furthermore, these option awards to the product consultants do not vest unless certain product submissions are made to the FDA, and accordingly, the Company has not recorded any expense for these contingently vesting option awards to the product consultants.

For the period ended December 31, 2017, the Company's total stock-based compensation expense was $1,761. Of this amount, $1,735 was recorded in general and administrative expenses and $26 was recorded in research and development expenses. For the period ended March 31, 2018 (unaudited), the Company's total stock-based compensation expense was $1,050. Of this amount, $1,034 was recorded in general and administrative expenses and $16 was recorded in research and development expenses.

A summary of stock option activity is as follows:

	Shares	Weighted Average Exercise Price Per Share	Weighted Average Remaining Contractual Term (years)	Aggregate Intrinsic Value
Balance at April 27, 2017 (Inception)	**—**	**$ —**		
Issued	1,090,000	1.24		
Exercised	—	—		
Forfeited/Cancelled	—	—		
Options outstanding as of December 31, 2017	1,090,000	1.24	9.7	$ 151
Issued	—	—		
Exercised	—	—		
Forfeited/Cancelled	—	—		
Options outstanding as of March 31, 2018 (unaudited)	**1,090,000**	**$ 1.24**	**9.4**	**$ 352**
Options exercisable at December 31, 2017	—	$ —	—	$ —
Options vested and expected to vest at December 31, 2017	1,040,000	$ 1.23	9.7	$ 151
Options exercisable at March 31, 2018 (unaudited)	—	$ —	—	$ —
Options vested and expected to vest at March 31, 2018 (unaudited)	1,040,000	$ 1.23	9.4	$ 343

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 for those stock options that had strike prices lower than the fair value of the Company's common stock.

(in thousands, except share and per share amounts)

Note 9 – Share-Based Payment Awards (cont.)

The assumptions used to calculate the fair value of options granted during the period ended December 31, 2017 under the BSM were as follows:

Expected dividends		—%
Expected volatility		85%
Risk-free interest rate		1.7% – 2.3%
Expected term		5.8 - 10 years
Weighted average fair value	$	0.91

Expected Term — The Company has opted to use the "simplified method" for estimating the expected term of options granted to employees and directors, whereby the expected term equals the arithmetic average of the vesting term and the original contractual term of the option (generally 10 years). The expected term of options granted to non-employees equals the contractual life of the options.

Expected Volatility — Due to the Company's limited operating history and a lack of Company specific historical and implied volatility data, the Company has based its estimate of expected volatility on the historical volatility of a group of similar companies that are publicly traded. The historical volatility data was computed using the daily closing prices for the selected companies' shares during the equivalent period of the calculated expected term of the stock-based awards.

Risk-Free Interest Rate — The risk-free rate assumption is based on the U.S. Treasury instruments with maturities similar to the expected term of the Company's stock options.

Expected Dividend — The Company has not issued any dividends in its history and does not expect to issue dividends over the life of the options and therefore has estimated the dividend yield to be zero.

Fair value of Common Stock — The fair value of the shares of common stock underlying the stock-based awards was determined by the board of directors, with input from management. Because there has been no public market for the Company's common stock, the board of directors has determined the fair value of the common stock on the grant-date of the stock-based award by considering a number of objective and subjective factors, including enterprise valuations of the Company's common stock performed by an unrelated third-party specialist, valuations of comparable companies, sales of the Company's convertible preferred stock to unrelated third parties, operating and financial performance, the lack of liquidity of the Company's capital stock, and general and industry-specific economic outlook. The board of directors intended all options granted to be exercisable at a price per share not less than the estimated per share fair value of common stock underlying those options on the date of grant.

A summary of activity for restricted stock awards and restricted stock units is as follows:

Restricted Stock Awards ("RSA's")	**RSA Shares**
As of April 27, 2017 (Inception)	**—**
Issued	2,500,000
Vested	—
Forfeited/Cancelled	—
Unvested as of December 31, 2017	**2,500,000**
Issued	218,980
Vested	(54,745)
Forfeited/Cancelled	—
Unvested as of March 31, 2018 (unaudited)	**2,664,235**

The weighted average grant date fair value of the restricted stock awards issued was $0.21 and $1.37 during the period ended December 31, 2017 and the three months ended March 31, 2018 (unaudited), respectively.

(in thousands, except share and per share amounts)

Note 9 – Share-Based Payment Awards (cont.)

Restricted Stock Units ("RSU's")	RSU Shares
As of April 27, 2017 (Inception)	—
Issued	100,000
Vested	(50,000)
Forfeited/Cancelled	—
Unvested as of December 31, 2017	**50,000**
Issued	—
Vested	(25,000)
Forfeited/Cancelled	—
Unvested as of March 31, 2018 (unaudited)	**25,000**

The weighted average grant date fair value of the restricted stock units issued during the period ended December 31, 2017 was $1.38.

As of December 31, 2017, there was a total of $926, $862 and $88 of unrecognized compensation costs related to non-vested stock option awards, restricted stock awards and restricted stock units, respectively. There were no exercises of stock options for the period April 27, 2017 (inception) through December 31, 2017. As of March 31, 2018 (unaudited), there was a total of $780, $584 and $35 of unrecognized compensation costs related to non-vested stock option awards, restricted stock awards and restricted stock units, respectively. There were no exercises of stock options during the three months ended March 31, 2018 (unaudited).

Note 10 - Basic and Diluted Net Loss per Common Share and Unaudited Pro Forma Net Loss per Common Share

Basic and diluted net loss per share is computed using the weighted average number of shares of common stock outstanding during the period. Common stock equivalents (using the treasury stock and "if converted" method) from stock options, unvested RSAs and RSUs, warrants and convertible preferred stock at December 31, 2017 and March 31, 2018 (unaudited) were 6,977,547 and 9,173,935, respectively, and are excluded from the calculation of diluted net loss per share because the effect is anti-dilutive. Included in the basic and diluted net loss per share calculation were RSUs awarded to directors that had vested, but the issuance and delivery of the shares are deferred until the director retires from service as a director.

The following table shows the computation of basic and diluted net loss per common share:

	Period From April 27, 2017 (Inception) Through December 31, 2017	Three Months Ended March 31, 2018 (unaudited)
Net loss	$ (7,156)	$ (3,018)
Series A Preferred – dividends (accrued and deemed)	(1,483)	(706)
Net loss attributable to common shareholders	**$ (8,639)**	**$ (3,724)**
Weighted average common shares outstanding (basic and diluted)	3,453,213	3,550,886
Net loss per common share (basic and diluted)	**$ (2.50)**	**$ (1.05)**

Note 10 - Basic and Diluted Net Loss per Common Share and Unaudited Pro Forma Net Loss per Common Share (cont.)

Unaudited Pro Forma Net Loss per Share Attributable to Common Shareholders

The unaudited pro forma basic and diluted net loss per share attributable to common shareholders for the period ended December 31, 2017 and the three months ended March 31, 2018 have been prepared to give effect to adjustments arising upon the closing of a qualified IPO. The unaudited pro forma net loss attributable to common stockholders used in the calculation of unaudited pro forma basic and diluted net loss per share attributable to common stockholders does not include the effects of the accretion of Series A Preferred to redemption value or the change in fair value of the warrant liability because the calculation gives effect to the automatic conversion of shares of Series A Preferred outstanding as of March 31, 2018 into the Company's common stock as if the proposed IPO had occurred on the issuance date of the Series A Preferred.

The unaudited pro forma basic and diluted weighted average common shares outstanding used in the calculation of unaudited pro forma basic and diluted net loss per share attributable to common shareholders for the period ended December 31, 2017 and the three months ended March 31, 2018 have been prepared to give effect, upon a qualified IPO, to the automatic conversion of all outstanding shares of Series A Preferred into shares of the Company's common stock as if the proposed IPO had occurred on the issuance date of the Series A Preferred.

Unaudited pro forma basic and diluted net loss per share attributable to common shareholders was calculated as follows (in thousands, except share and per share amounts):

	Period From April 27, 2017 (Inception) Through December 31, 2017 (unaudited)	Three Months Ended March 31, 2018 (unaudited)
Numerator		
Net loss attributable to common stockholders	$ (8,639)	$ (3,724)
Accretion of Series A Preferred to redemption value		
Change in fair value of warrant liability		
Pro forma net loss attributable to common stockholders	$	$
Denominator		
Weighted average common shares outstanding (basic and diluted)	3,453,213	3,550,886
Pro forma adjustment to reflect assumed automatic conversion of Series A Preferred into common stock upon the closing of the proposed initial public offering		
Pro forma weighted average common shares outstanding—basic and diluted		
Pro forma net loss per share attributable to common stockholders—basic and diluted	$	$

Note 11 – Related Party Transactions

Imprimis

Imprimis was issued 3,500,000 shares of the Company's common stock at the formation of the Company at the $0.001 par value per share price as the paid-in-capital contribution from Imprimis. The Company and Imprimis have signed licensing agreements for two products developed by Imprimis whereby Imprimis has assigned the product rights to the Company. The Company will pay Imprimis a $50 milestone payment upon patent approval for each product and a royalty fee at a rate of six percent on the net sales of those two products. On December 26, 2017, one of the products had its patent approved and a $50 milestone fee was recognized as R&D expense by the Company in 2017 and paid to Imprimis in January 2018 (unaudited).

As part of the early start-up for the Company's pharmaceutical business, key executives at Imprimis received 1,500,000 shares of restricted common stock in the Company for consulting services and certain Imprimis managers also received 130,000 common stock options from the Company. The restricted stock and stock options vest 100% after one year on April 30, 2018. The Company recorded stock-based compensation expense of $1,370 and $112 for the Imprimis restricted common stock and stock options, respectively, for the period ended December 31, 2017 as a component of its general and administrative expenses. The Company recorded stock-based compensation expense of $775 and $65 for the Imprimis restricted common stock and stock options, respectively, for the period ended March 31, 2018 (unaudited) as a component of its general and administrative expenses.

Note 11 – Related Party Transactions (cont.)

As part of the early start-up for the Company's business operations, Imprimis provided ongoing financial and administrative services under a Management Services Agreement ("MSA") at the rate of $10 per month. Notice was given in late August 2017 to terminate that MSA and the services were terminated as of September 30, 2017. For the period May through September 2017, the Company paid Imprimis $50 for the MSA- related services which was reflected as a component of the Company's general and administrative expenses in 2017.

Additionally, the President and Chief Executive Officer of Imprimis is the chairman of the Company's board of directors.

Chief Executive Officer

The Company's Chief Executive Officer ("CEO") has a partial interest in several companies that the Company is working on for product development and potential marketing if the products are approved by the FDA:

The Company acquired the exclusive rights to sell the EM-100 product in the U.S. pursuant to a Sales and Marketing Agreement dated August 11, 2017 between the Company and Eyemax LLC, an entity affiliated with our Chief Executive Officer. The Company also holds a right of first refusal to obtain the exclusive license rights for geographic areas outside of the U.S. Pursuant to the agreement, the Company is responsible for all costs of testing and FDA approval of the product, other than the FDA filing fee which will be paid by the licensor. The Company is also responsible for commercializing the product in the U.S. at its expense. The Company paid the licensor $250 upon execution of the agreement which was recorded as a component of research and development expense and will pay the licensor $250 upon FDA approval and $500 upon the first commercial sale of the product. The Company will also pay the licensor a royalty of 10% on the net sales of all products. The license agreement is for an initial term of ten years from the date of the agreement, subject to successive two-year renewals unless the Company elect to terminate the agreement. There were no amounts due under the terms of this agreement as of December 31, 2017 or March 31, 2018 (unaudited).

The Company acquired the exclusive rights to sell the DS-100 product in the U.S. pursuant to an Exclusive Development and Supply Agreement dated July 9, 2017 between the Company and Andersen Pharma, LLC, an entity affiliated with our Chief Executive Officer. The Company also holds an option to purchase the DS-100 product and all related intellectual property and government approvals at a price of one dollar. Pursuant to the agreement, the licensor is responsible for obtaining FDA approval at its expense and manufacturing the product for sale to the Company at its cost. The Company is responsible for commercializing the product in the U.S. at its expense. The Company paid the licensor $750 upon execution of the agreement which was recorded as a component of research and development expense and will pay the licensor $750 upon successful completion of a registration batch of product, $750 upon submission of an NDA and $750 upon FDA approval. The Company will also pay the licensor 50% of the net profit from the sale of the product. The license agreement is for an initial term of five years from the first commercial sale of the product, subject to successive two-year renewals unless either party elects to terminate the agreement. There were no amounts due under the terms of this agreement as of December 31, 2017 or March 31, 2018 (unaudited). The aforementioned option to purchase the product and all related intellectual property and government approvals was considered to represent variable interest in the affiliated entity. The affiliated entity was not considered to be a variable interest entity.

The Company acquired the DS-200 product and all related intellectual property and government approvals pursuant to an Asset Purchase Agreement dated June 23, 2017 between the Company and Selenix LLC, an entity affiliated with our Chief Executive Officer. Pursuant to the agreement, the Company paid the seller $1,500 which was recorded as a component of research and development expense and have agreed to pay $1,500 upon submission of the NDA and $1,000 upon FDA approval. The Company has also agreed to pay the seller 50% of the net profit from the sale of the product for the first ten years following the date of the agreement. There were no amounts due under the terms of this agreement as of December 31, 2017 or March 31, 2018 (unaudited).

The Company's CEO owns 23,000 shares of the Company's Series A Preferred through a family limited partnership as of December 31, 2017 and March 31, 2018 (unaudited).

(in thousands, except share and per share amounts)

Note 12 – Income Taxes

Deferred income taxes reflect the net tax effects of temporary differences between the carrying amounts of assets and liabilities for financial reporting purposes and the amounts used for income tax purposes.

The significant components of the Company's deferred tax assets as of December 31, 2017 are as follows:

Net operating losses	$ 1,610
Stock-based expenses	102
Accruals and other	64
Total deferred tax assets	**1,776**
Valuation allowance	(1,776)
Net deferred tax assets	**$ —**

Based on the uncertainty of future taxable income at this time management believes a 100% valuation reserve for the $1,776 deferred tax asset is appropriate.

A reconciliation of the statutory federal tax rate to effective tax rate is shown below:

Benefit at statutory rate	(34.0)%
Permanent items (primarily stock compensation)	4.2
State tax benefit	(5.5)
Federal rate change	10.2
Other items	0.2
Establishment of valuation allowance	24.9
Income tax expense	**—%**

The Company has a federal and state NOL carryforward of $5,648 as of December 31, 2017 which will expire in 2037 and 2039, respectively. The recently enacted Tax Act significantly revised U.S. corporate income tax law by, among other things, reducing the corporate income tax rate from 34% to 21% and implementing a modified territorial tax system. In response to the Tax Act, the SEC issued SAB 118 which allows issuers to recognize provisional estimates of the impact of the Tax Act in their financial statements and adjust in the period in which the estimate becomes finalized, or in circumstances where estimates cannot be made, to disclose and recognize within a one-year measurement period.

Implementation of the Tax Act resulted in an approximate $733 charge for the revaluation of the Company's net deferred tax assets offset by a corresponding $733 reduction in the valuation reserve for income taxes during the period ended December 31, 2017. In reaching these estimates, the Company utilized all available guidance and notices issued by the U.S. Department of the Treasury. These amounts are to be considered provisional and are not currently able to be finalized given the complexity of the underlying calculations. The Company will update and conclude its accounting as additional information is obtained, which is contingent on the timing of issuance of regulatory guidance.

Note 13 - Employee Savings Plan

The Company established an employee savings plan pursuant to Section 401(k) of the Internal Revenue Code, effective January 1, 2018. The plan allows participating employees to deposit into tax deferred investment accounts up to 100% of their salary, subject to annual limits. The Company makes certain matching contributions to the plan in amounts up to 4% of the participants' annual cash compensation, subject to annual limits. There were no Company contributions for the period ended December 31, 2017. Company contributions for the three months ended March 31, 2018 (unaudited) were $23.

Note 14 – Commitments and Contingencies

Legal

The Company is subject to legal proceedings and claims that may arise in the ordinary course of business. The Company is not aware of any pending or threatened litigation matters at this time that may have a material impact on the operations of the Company.

Leases

On January 12, 2018 (unaudited), the Company signed an amended lease agreement to lease additional office space adjacent to its current corporate office space in Deer Park, Illinois. The amended lease runs through the end of March 2021 with $248 in total lease payments for the 2018-2021 period.

On March 7, 2018 (unaudited), the Company entered into a lease for laboratory space at a complex in Lake Zurich, Illinois. The lease commences on March 7, 2018 and runs through the end of February 2021 with $166 in total lease payments for the 2018-2021 period.

License and product development agreements

The Company has entered into various agreements in addition to those discussed above which are as follows:

The Company entered into a contract for development and production of its CT-100 product with an unaffiliated third party on November 7, 2017. Pursuant to the agreement, the third party is responsible for development and production of the product and for obtaining FDA approval and the Company is responsible for commercializing the product in the United States. The Company will pay the third party 30% of the net profits from the sale of the product. The initial term is for the first ten years following the first commercial sale of the product.

The Company acquired the exclusive rights to sell the DS-300 product in the U.S. pursuant to a Sales and Marketing Agreement dated November 17, 2017 with an unaffiliated third party. Pursuant to the agreement, the licensor is responsible for obtaining FDA approval, at its expense, and the Company is responsible for commercializing the product in the U.S. at its expense. The Company will pay the third party 50% of the net profit from the sale of the product. The initial term is for the first ten years following the first commercial sale of the product.

The Company entered into a contract with a clinical research organization (“CRO”) for clinical studies on its EM-100 product candidate and those studies are anticipated to be completed in 2018. The Company will pay milestones at each phase of completion and may provide a notice of termination at any point during the clinical study project. There were no milestones paid under this agreement in 2017.

The Company has entered into a contract for technical validation and engineering/registration batches for its DS-300 product which are projected to be completed in 2018. The Company may provide a notice of termination at any point during the project. There were no payments under this agreement in 2017.

The Company has entered into a contract for technical transfer, batch testing and stability studies for its DS-200 product projected to be completed in 2018. The Company may provide a notice of termination at any point during the project. There were no payments under this agreement in 2017.

Indemnifications

As permitted under Delaware law and in accordance with the Company’s bylaws, the Company is required to indemnify its officers and directors for certain events or occurrences while the officer or director is or was serving in such capacity. The Company is also party to indemnification agreements with its directors and officers. The Company believes the fair value of the indemnification rights and agreements is minimal. Accordingly, the Company has not recorded any liabilities for these indemnification rights and agreements as of December 31, 2017 or March 31, 2018 (unaudited).

Note 15 – Subsequent Events

For the financial statements as of December 31, 2017 and for the period then ended, the Company evaluated subsequent events through May 18, 2018, which was the date the financial statements were issued.

On January 1, 2018, the Company awarded 54,745 shares of restricted stock to each of its four outside Board of Director members for a total of 218,980 restricted stock shares. These shares vest 25% at each quarter-end in 2018 and are 100% vested by December 31, 2018.

On January 12, 2018, the Company signed an amended lease agreement to lease additional office space adjacent to its current corporate office space in Deer Park, Illinois. The new lease commences on April 1, 2018 and runs through the end of March 2021 with $248 in total lease payments over the three-year period.

On March 7, 2018, the Company entered into a lease for laboratory space at a complex in Lake Zurich, Illinois. The lease commences on March 7, 2018 and runs through the end of February 2021 with $166 in total lease payments over the three-year period.

Note 16 – Subsequent Events (Unaudited)

For its interim financial statements as of March 31, 2018 and for the three months then ended, the Company evaluated subsequent events through June 28, 2018, the date on which those financial statements were issued.

Shares of Common Stock

Eton Pharmaceuticals, Inc.

PROSPECTUS

[_____]

, 2018

Through and including , 2018 (the 25th day after the date of this prospectus), all dealers effecting transactions in these securities, whether or not participating in this offering, may be required to deliver a prospectus. This is in addition to a dealer's obligation to deliver a prospectus when acting as an underwriter and with respect to an unsold allotment or subscription.

PART II

INFORMATION NOT REQUIRED IN PROSPECTUS

ITEM 13. OTHER EXPENSES OF ISSUANCE AND DISTRIBUTION

The following table sets forth the various expenses to be incurred in connection with the sale and distribution of our common stock being registered hereby, all of which will be borne by us (except any underwriting discounts and commissions and expenses incurred for brokerage, accounting, tax or legal services or any other expenses incurred in disposing of the shares). All amounts shown are estimates except the SEC registration fee.

SEC Filing Fee	$	2,886.75
FINRA Fee		3,917.60
Underwriter's Legal Fees and Expenses.		*
Nasdaq Fee	$	80,000.00
Printing Expenses		*
Accounting Fees and Expenses		*
Legal Fees and Expenses		*
Transfer Agent and Registrar Expenses		*
Miscellaneous		*
Total	$	*

* To be provided by amendment.

ITEM 14. INDEMNIFICATION OF DIRECTORS AND OFFICERS

The following summary is qualified in its entirety by reference to the complete text of any statutes referred to below and the certificate of incorporation of Eton Pharmaceuticals, Inc., a Delaware corporation.

Section 145 of the General Corporation Law of the State of Delaware (the "DGCL") permits a Delaware corporation to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the corporation) by reason of the fact that the person is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by the person in connection with such action, suit or proceeding if the person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe the person's conduct was unlawful.

In the case of an action by or in the right of the corporation, Section 145 of the DGCL permits a Delaware corporation to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by reason of the fact that the person is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees) actually and reasonably incurred by the person in connection with such action, suit or proceeding if the person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the corporation and except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the corporation unless and only to the extent that the Court of Chancery or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses that the Court of Chancery or such other court shall deem proper.

Section 145 of the DGCL also permits a Delaware corporation to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against such person and incurred by such person in any such capacity, or arising out of such person's status as such, whether or not the corporation would have the power to indemnify such person against such liability under Section 145 of the DGCL.

Article Seventh of our Amended and Restated Certificate of Incorporation states that to the fullest extent permitted by the DGCL our directors shall not be personally liable to us or to our stockholders for monetary damages for breach of fiduciary duty as a director. If the DGCL is amended after the date hereof to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of our directors shall be eliminated or limited to the fullest extent permitted by the DGCL, as so amended.

Article Eighth of our Amended and Restated Certificate of Incorporation requires us, to the fullest extent permitted by applicable law, to provide indemnification of (and advancement of expenses to) our directors and officers, and authorizes us, to the fullest extent permitted by applicable law, to provide indemnification of (and advancement of expenses to) to other employees and agents (and any other persons to which the DGCL permits us to provide indemnification) through bylaw provisions, agreements with such directors, officers, employees, agents or other persons, vote of stockholders or disinterested directors or otherwise, subject only to limits created by the DGCL with respect to actions for breach of duty to our corporation, our stockholders and others.

Article Eighth of our Amended and Restated Certificate of Incorporation provides that we shall, to the maximum extent and in the manner permitted by the DGCL, indemnify each of our directors, officers and all other persons we have the power to indemnify under Section 145 of the DGCL against expenses (including attorneys' fees), judgments, fines, settlements and other amounts actually and reasonably incurred in connection with any proceeding, arising by reason of the fact that such person is or was a director of the Company. We may maintain insurance, at our expense, to protect the Company and any of our directors, officers, employees or agents against any such expense, liability or loss, whether or not we have the power to indemnify such person.

Prior to the closing of this offering we plan to enter into an underwriting agreement, which will provide that the underwriters are obligated, under some circumstances, to indemnify our directors, officers and controlling persons against specified liabilities.

ITEM 15. RECENT SALES OF UNREGISTERED SECURITIES

Issuances of capital stock

The following list sets forth information regarding all unregistered securities sold by us since April 27, 2017 (inception) through the date of the prospectus that forms a part of this registration statement.

On May 1, 2017, we issued 3,500,000 shares of our common stock for aggregate consideration of $3,500.

In May 2017, we issued a warrant to purchase an aggregate of 600,000 shares of our common stock to Liquid Patent Advisors, LLC at an exercise price of $0.01 per share.

In June 2017, we issued an aggregate of 6,685,082 shares of our Series A preferred stock to 234 accredited investors at a purchase price of $3.00 per share for aggregate consideration of approximately $20.1 million.

In June 2017, we issued a warrant to National Securities Corporation, as placement agent compensation in connection with our June 2017 placement of Series A preferred stock, to purchase shares of our common stock equal to 10% of our common stock issuable upon conversion of out Series A preferred stock sold in the placement by National Securities Corporation, at an exercise price equal to 50% of the initial public offering.

We believe the offers, sales and issuances of the above securities by us were exempt from registration under the Securities Act by virtue of Section 4(a)(2) of the Securities Act as transactions not involving a public offering. The recipients of the securities in each of these transactions represented their intentions to acquire the securities for investment only and not with a view to or for sale in connection with any distribution thereof, and appropriate legends were placed upon the stock certificates, notes and warrants issued in these transactions. All recipients had adequate access, through their relationships with us, to information about our Company. The sales of these securities were made without any general solicitation or advertising.

The offers, sales and issuances of the securities described in the paragraphs above were exempt from registration under Section 4(a)(2) of the Securities Act and Regulation D promulgated under the Securities Act. Each of the purchasers represented to us that they acquired the securities for investment only and not with a view to or for sale in connection with any distribution thereof and appropriate legends were affixed to the securities issued in these transactions. The purchasers also represented to us that they were accredited investors as defined in Rule 501 promulgated under the Securities Act.

Stock Option Grants and our Common Stock Issuances to Employees, Directors and Consultants

The following list sets forth information regarding all unregistered securities granted by us pursuant to our 2017 Plan since April 27, 2017 (inception) through the date of the prospectus that forms a part of this registration statement.

From April 27, 2017 (inception) through the date of the prospectus that is a part of this registration statement, we have granted options under the 2017 Plan to purchase (i) an aggregate of 130,000 shares of our common stock to consultants, at an exercise price of $0.21 per share, (ii) an aggregate of 400,000 shares of our common stock to employees at an exercise price of $1.37 per share and (iii) an aggregate of 570,000 shares of our common stock to employees and consultants at an exercise price of $1.38 per share. Of these, no options have been cancelled without being exercised and no shares have been issued upon the exercise of stock options.

From May 2017 through the date of the prospectus that is part of this registration statement, we granted restricted stock awards under our 2017 Plan for an aggregate of 2,718,980 shares of our common stock to certain individuals as consideration for services provided to the Company.

In July and September 2017, we granted restricted stock unit awards under our 2017 Plan for an aggregate of 100,000 shares of our common stock to four of our directors as consideration for services provided to the Company.

ITEM 16. EXHIBITS

Exhibit No.	Description of Document
1.1*	Form of Underwriting Agreement
3.1	Amended and Restated Certificate of Incorporation of the Registrant
3.2	Bylaws of the Registrant
4.1*	Specimen Certificate representing shares of common stock of Registrant
4.2	Warrant dated May 4, 2017 issued to Liquid Patent Advisors, LLC
4.3	Warrant dated June 26, 2017 issued to National Securities Corporation
5.1*	Opinion of Greenberg Traurig, LLP regarding the validity of the common stock being registered
10.1	Securities Purchase Agreement dated June 19, 2017 by and among the Registrant and the Buyers named therein
10.2	Registration Rights Agreement dated June 19, 2017 by and among the Registrant and certain of its stockholders
10.3	Asset Purchase and License Agreement (CT-100) dated May 9, 2017 between Imprimis Pharmaceuticals, Inc. and the Registrant
10.4	Asset Purchase and License Agreement (CT-200) dated May 9, 2017 between Imprimis Pharmaceuticals, Inc. and the Registrant
10.5†	Asset Purchase Agreement (DS-200) dated June 23, 2017 between Selenix, LLC and the Registrant
10.6†	Exclusive Development and Supply Agreement (DS-100) dated July 9, 2017 between Andersen Pharma, LLC and the Registrant
10.7†	Exclusive Sales and Marketing Agreement (EM-100) dated August 11, 2017 between Eyemax, LLC and the Registrant
10.8†	Development, Supply and Commercialization Agreement (CT-100) dated November 7, 2017
10.9†	Sales/Marketing Agreement (DS-300) dated November 17, 2017 by and among AL Pharma, Inc., SCS National, LLC, Dry Creek Project, LLC and the Registrant
10.10+	Eton Pharmaceuticals, Inc. 2017 Stock Incentive Plan
10.11+	Consulting Agreement by and between the Registrant and Mark L. Baum, dated as of May 1, 2017
10.12+	Offer Letter Agreement by and between the Registrant and Sean E. Brynjelsen, dated as of May 17, 2017
10.13+	Offer Letter Agreement by and between the Registrant and W. Wilson Troutman, dated as of June 27, 2017
10.14 †	Exclusive License and Supply Agreement (ET-103) dated August 3, 2018 between the Registrant, Liqmeds Worldwide Limited and LM Manufacturing, Ltd.
21.1	List of Subsidiaries
23.1	Consent of KMJ Corbin & Company LLP, Independent Registered Public Accounting Firm
23.2*	Consent of Greenberg Traurig, LLP (included in Exhibit 5.1)
24.1	Power of Attorney (included on page II-5)

* To be submitted by amendment

† Portions of this exhibit (indicated by asterisks) have been omitted pursuant to a request for confidential treatment and have been separately filed with the Securities and Exchange Commission.

+ Indicates management compensatory plan, contract or arrangement

ITEM 17. UNDERTAKINGS

The undersigned registrant hereby undertakes to provide to the underwriter at the closing specified in the underwriting agreements, certificates in such denominations and registered in such names as required by the underwriters to permit prompt delivery to each purchaser.

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 Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities 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 Securities Act and will be governed by the final adjudication of such issue.

The undersigned registrant undertakes that:

(1) For purposes of determining any liability under the Securities Act, the information omitted from the form of prospectus as 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, 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 of 1933, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Deer Park, Illinois on this 10th day of August 2018.

ETON PHARMACEUTICALS, INC.

/s/ Sean E. Brynjelsen
Sean E. Brynjelsen
Chief Executive Officer and Director
(Principal Executive Officer)

POWER OF ATTORNEY

Each person whose signature appears below constitutes and appoints Sean Brynjelsen, his true and lawful attorney-in-fact and agent, each with full power of substitution and resubstitution, severally, for him and in his name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to this registration statement on Form S-1, any subsequent registration statements pursuant to Rule 462 of the Securities Act of 1933, as amended, and to file the same, with all exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorney-in-fact and agent, full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said attorney-in-fact and agent or his substitute or substitutes, may lawfully do or cause to be done by virtue hereof. This power of attorney may be executed in counterparts.

Pursuant to the requirements of the Securities Act of 1933, this registration statement on Form S-1 has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
/s/ Sean E. Brynjelsen Sean E. Brynjelsen	President, Chief Executive Officer and Director *(Principal Executive Officer)*	August 10, 2018
/s/ W. Wilson Troutman W. Wilson Troutman	Chief Financial Officer, Treasurer and Secretary *(Principal Financial and Accounting Officer)*	August 10, 2018
/s/ Mark L. Baum Mark L. Baum	Director	August 10, 2018
/s/ Charles J. Casamento Charles J. Casamento	Director	August 10, 2018
/s/ Paul V. Maier Paul V. Maier	Director	August 10, 2018
/s/ Norbert G. Riedel Norbert G. Riedel, Ph.D.	Director	August 10, 2018

Exhibit 3.1

AMENDED AND RESTATED
CERTIFICATE OF INCORPORATION
OF
ETON PHARMACEUTICALS, INC.
A Delaware Corporation

(Pursuant to Sections 242 and 245 of the
General Corporation Law of the State of Delaware)

Eton Pharmaceuticals, Inc., a corporation organized and existing under and by virtue of the provisions of the General Corporation Law of the State of Delaware (the "DGCL"),

DOES HEREBY CERTIFY:

1. That the name of this corporation is Eton Pharmaceuticals, Inc., and that this corporation was originally incorporated pursuant to the DGCL on April 27, 2017.

2. This Amended and Restated Certificate of Incorporation of the Corporation was duly adopted in accordance with Sections 242 and 245 of the DGCL and restates, integrates and further amends the provisions of the Corporation's Certificate of Incorporation as follows:

FIRST: The name of this corporation is Eton Pharmaceuticals, Inc. (the "Corporation").

SECOND: The address, including street, number, city and county, of the registered office of the Corporation in the State of Delaware is 850 New Burton Road, Suite 201, Dover, DE 19904, County of Kent; and the name of the registered agent of the Corporation in the State of Delaware at such address is Cogency Global Inc.

THIRD: The nature of the business and of the purposes to be conducted and promoted by the Corporation is to conduct any lawful business, to promote any lawful purpose, and to engage in any lawful act or activity for which corporations may be organized under the DGCL.

FOURTH: The aggregate number of shares of stock which this Corporation shall have authority to issue is Sixty Million (60,000,000) shares, consisting of (a) Fifty Million (50,000,000) shares of common stock, par value $0.001 per share (the "Common Stock"), and (b) Ten Million (10,000,000) shares of preferred stock, par value $0.001 per share (the "Preferred Stock").

The following is a statement of the designations and the powers, privileges and rights, and the qualifications, limitations or restrictions thereof in respect of each class of capital stock of the Corporation.

A. COMMON STOCK

4.1 Common Stock. The Corporation is authorized to issue up to Fifty Million (50,000,000) shares of Common Stock. Each outstanding share of Common Stock of the Corporation shall be entitled to one vote and each fractional share of Common Stock shall be entitled to a corresponding fractional vote on each matter submitted to a vote of the shareholders. A majority of all shares of stock, based on the number of votes to which they are entitled, of both Common Stock and Preferred Stock voting together as a single class represented in person or by proxy, shall constitute a quorum at a meeting of shareholders or as required for an action taken by written consent. Except as otherwise provided by this Certificate of Incorporation, if a quorum is present, the affirmative vote of a majority of the shares, based on the number of votes to which they are entitled, represented at the meeting and entitled to vote on the subject matter shall be the act of the shareholders. Cumulative voting shall not be allowed in the election of directors of the Corporation.

B. PREFERRED STOCK

Ten Million (10,000,000) shares of Preferred Stock of the Corporation are hereby designated "Series A Preferred Stock" with the following rights, preferences, powers, privileges and restrictions, qualifications and limitations. Unless otherwise indicated, references to "sections" or "subsections" in this Part B of this Article Fourth refer to sections and subsections of Part B of this Article Fourth.

1. Par Value; Stated Value. Each share of Series A Preferred Stock shall have a par value of $0.001 and a stated value equal to $3.00 (the "**Stated Value**").

2. Definitions. In addition to the terms defined elsewhere in this Certificate of Designations, the following terms have the meanings indicated:

"**Announced IPO Date**" shall have the meaning given in Section 8(f).

"**Business Day**" means any day other than Saturday, Sunday and any day on which banks are required or authorized by law to be closed in the State of California.

"**Commission**" means the Securities and Exchange Commission.

"**Common Stock**" means the common stock of the Corporation, par value $0.001 per share.

"**Common Stock Equivalents**" means any securities of the Corporation or its subsidiaries which would entitle the holder thereof to acquire at any time Common Stock, including, without limitation, any debt, preferred stock, right, option, warrant, other instrument, or other subscription or purchase right with respect to Common Stock, that is at any time convertible into or exercisable or exchangeable for, or otherwise entitles the holder thereof to receive, Common Stock.

"**Conversion Amount**" means the sum of the Stated Value plus all accrued and unpaid Dividends thereon plus, if any, other unpaid amounts due under this Certificate of Designation.

Conversion Price" shall have the meaning given in Section 8.

"**Dividend Rate**" means a percentage of the Stated Value per share, as adjusted for any stock split, stock dividend, stock combination or other similar transactions with respect to the Series A Preferred Stock, of six percent (6%) per annum, provided, that if an Event of Default shall have occurred and be continuing, the Dividend Rate shall automatically be increased to twelve percent (12%) per annum during the period of such Event of Default, until such Event of Default is later cured.

"**Event of Default**" shall have the meaning given in Section 17.

"**Holder**" means any holder of Series A Preferred Stock.

"**IPO**" means a firm commitment underwritten initial public offering of the Corporation's Common Stock pursuant to a registration statement filed on Form S-1 (or any successor from thereto) that is declared effective by the SEC and consummated prior to the Redemption Date.

"**IPO Notice**" shall have the meaning given in Section 8(f).

"**IPO Price to Public**" means the price to public specified in the IPO registration statement.

"**Junior Securities**" means the (i) Common Stock and all other equity or equity equivalent securities of the Corporation, and (ii) all equity or equity equivalent securities issued by the Corporation after the Original Issue Date that do not rank senior to or pari passu with the Series A Preferred Stock.

"**Original Issue Date**" means the date of the first issuance of any shares of the Series A Preferred Stock regardless of the number of transfers of any particular shares of Series A Preferred Stock and regardless of the number of certificates that may be issued to evidence such Series A Preferred Stock.

"**Person**" means any individual or corporation, partnership, trust, incorporated or unincorporated association, joint venture or other non-corporate business enterprise, limited liability company, joint stock company, trust, organization, business, labor union or government (or an agency or subdivision thereof) or any court or other federal, state, local or other governmental authority or other entity of any kind.

"**Required Holders**" means the Holders that hold at least a majority of the Series A Preferred Stock then outstanding.

"**Securities Purchase Agreement**" means that certain securities purchase agreement, dated as of June 16, 2017, by and among the Corporation and the purchasers of the Series A Preferred Stock named therein.

"**Series A Preferred Stock**" means the Series A Convertible Preferred Stock, $0.001 par value, of the Corporation, which is convertible into shares of Common Stock.

"**Subsequent Placement**" has the meaning given to it in Section 4(k) of the Securities Purchase Agreement.

"**Underlying Shares**" means the shares of Common Stock issuable upon conversion of the Series A Preferred Stock.

3. Voting Rights.

Except as otherwise required by law or hereunder, the Series A Preferred Stock shall vote together, and not separately as a class, with the Common Stock and all other shares of stock of the Corporation having general voting power. The holder of each share of Series A Preferred Stock shall be entitled to the number of votes equal to the number of shares of Common Stock into which such share of Series A Preferred Stock could be converted at the record date for determination of the stockholders entitled to vote on such matters, or, if no record date is established, at the date such vote is taken or the effective date of any written consent. Fractional votes of the holders of Series A Preferred Stock shall not, however, be permitted and fractional voting rights shall be (after aggregating all shares into which shares of Series A Preferred Stock held by each Holder could be converted) rounded to the nearest whole number (with one-half being rounded upward). Holders of Series A Preferred Stock shall be entitled to notice of any stockholders meetings in accordance with the Bylaws of the Corporation, as if such Holders owned shares of Common Stock.

Unless the consent or approval of a greater number of shares shall then be required by law, the affirmative vote of the Required Holders shall be necessary to (1) authorize, increase the authorized number of shares of or issue (including on conversion or exchange of any convertible or exchangeable securities or by reclassification) any additional shares of Series A Preferred Stock or any shares of capital stock of the Corporation having any right, preference or priority ranking senior to or pari passu with Series A Preferred Stock, (2) authorize, adopt or approve any amendment to the Certificate of Incorporation, the Bylaws or this Certificate of Designations that would increase or decrease the par value of the shares of the Series A Preferred Stock, alter or change the powers, preferences or rights of the shares of Series A Preferred Stock or alter or change the powers, preferences or rights of any other capital stock of the Corporation if after such alteration or change such capital stock would be senior to or pari passu with Series A Preferred Stock, (3) amend, alter or repeal the Certificate of Incorporation, the Bylaws or this Certificate of Designations so as to affect the shares of Series A Preferred Stock adversely, including in connection with a merger, recapitalization, reorganization or otherwise, (4) authorize or issue any security convertible into, exchangeable for or evidencing the right to purchase or otherwise receive any shares of any class or classes of capital stock of the Corporation having any right, preference or priority ranking senior to or pari passu with Series A Preferred Stock, (5) organize a subsidiary of the Corporation or (6) pay or set apart for payment any dividend on any Junior Securities or make any payment on account of, or set apart for payment money for a sinking or other similar fund for, the purchase, redemption or other retirement of, any Junior Securities or any warrants, rights, calls or options exercisable for or convertible into any Junior Securities whether in cash, obligations or shares of Corporation or other property, and shall not permit any corporation or other entity directly or indirectly controlled by the Corporation to purchase or redeem any Junior Securities or any such warrants, rights, calls or options.

4. Dividends.

(a) Holders shall be entitled to receive, out of funds legally available therefor, and the Corporation shall pay, cumulative dividends on the Series A Preferred Stock at the Dividend Rate per share. Dividends on the Series A Preferred Stock shall accrue daily commencing as of the Original Issue Date at the Dividend Rate then in effect, and shall be deemed to accrue from the Original Issue Date whether or not earned or declared and whether or not there are profits, surplus or other funds of the Corporation legally available for the payment of dividends. Dividends on the Series A Preferred Stock shall (i) be calculated on the basis of a 365-day year, and (ii) be payable quarterly in arrears commencing on June 30, 2017 and thereafter on each June 30, September 30, December 31 and March 31, except if such date is not a Business Day, such dividend shall be payable on the next succeeding Business Day (each, a "**Dividend Payment Date**").

(b) The Corporation shall pay required dividends in cash, except as otherwise provided in this Certificate of Designations.

(c) Except as authorized in accordance with Section 3, so long as any Series A Preferred Stock is outstanding, the Corporation shall not pay or set apart for payment any dividend on any Junior Securities or make any payment on account of, or set apart for payment money for a sinking or other similar fund for, the purchase, redemption or other retirement of, any Junior Securities or any warrants, rights, calls or options exercisable for or convertible into any Junior Securities whether in cash, obligations or shares of Corporation or other property, and shall not permit any corporation or other entity directly or indirectly controlled by the Corporation to purchase or redeem any Junior Securities or any such warrants, rights, calls or options.

5. Registration of Series A Preferred Stock. The Corporation or its Transfer Agent shall register shares of the Series A Preferred Stock, upon records to be maintained by the Corporation or its Transfer Agent, as the case may be, for that purpose (the "**Series A Preferred Stock Register**"), in the name of the record Holders thereof from time to time. The Corporation may deem and treat the registered Holder of shares of Series A Preferred Stock as the absolute owner thereof for the purpose of any conversion hereof or any distribution to such Holder, and for all other purposes, absent actual written notice to the contrary from the registered Holder.

6. Registration of Transfers. The Corporation shall register the transfer of any shares of Series A Preferred Stock in the Series A Preferred Stock Register, upon surrender of certificates evidencing such shares to the Corporation at its address specified herein. Upon any such registration or transfer, a new certificate evidencing the shares of Series A Preferred Stock so transferred shall be issued to the transferee and a new certificate evidencing the remaining portion of the shares not so transferred, if any, shall be issued to the transferring Holder; provided that if the Corporation does not so record an assignment, transfer or sale (as the case may be) within two (2) Business Days of its receipt of such a request, then the Series A Preferred Stock Register shall be automatically updated to reflect such assignment, transfer or sale (as the case may be).

7. Liquidation.

(a) In the event of any liquidation, dissolution or winding up of the Corporation, either voluntary or involuntary (a "**Liquidation Event**"), the Holders of Series A Preferred Stock shall be entitled to receive, prior and in preference to any distribution of any of the assets or surplus funds of the Corporation to the holders of Junior Securities by reason of their ownership thereof, an amount per share in cash equal to the greater of (x) the Stated Value for each share of Series A Preferred Stock then held by them (as adjusted for any stock split, stock dividend, stock combination or other similar transactions with respect to the Series A Preferred Stock), plus all accrued and unpaid dividends on such Series A Preferred Stock as of the date of such event, or (y) the amount payable per share of Common Stock which such Holder of Series A Preferred Stock would have received if such Holder had converted to Common Stock immediately prior to the Liquidation Event all of the shares of Series A Preferred Stock then held by such Holder together with all accrued but unpaid dividends on such Series A Preferred Stock as of the date of such event (the "**Series A Stock Liquidation Preference**"). If, upon the occurrence of a Liquidation Event, the funds thus distributed among the holders of the Series A Preferred Stock shall be insufficient to permit the payment to such Holders of the full Series A Stock Liquidation Preference, then the entire assets and funds of the Corporation legally available for distribution shall be distributed ratably among the Holders of the Series A Preferred Stock in proportion to the aggregate Series A Stock Liquidation Preference that would otherwise be payable to each of such Holders. Such payment shall constitute payment in full to the holders of the Series A Stock upon the Liquidation Event. After such payment shall have been made in full, or funds necessary for such payment shall have been set aside by the Corporation in trust for the account of the holders of Series A Preferred Stock, so as to be immediately available for such payment, such holders of Series A Preferred Stock shall be entitled to no further participation in the distribution of the assets of the Corporation. The sale of all or substantially all of the assets of the Corporation, or merger, tender offer or other business combination to which the Corporation is a party in which the voting stockholders of the Corporation prior to such transaction do not own a majority of the voting securities of the resulting entity or by which any person or group acquires beneficial ownership of 50% or more of the voting securities of the Corporation or resulting entity shall, for the purposes of this Certificate of Designations, be deemed to be a Liquidation Event.

(b) In the event of a Liquidation Event, following completion of the distributions required by the first sentence of paragraph (a) of this Section 7, if assets or surplus funds remain in the Corporation, the holders of the Junior Securities shall share in all remaining assets of the Corporation, in accordance with the General Corporation Law of Delaware and the Certificate of Incorporation of the Corporation, as amended.

8. Conversion. The Series A Preferred Stock held by a Holder may be converted into validly issued, fully paid and non-assessable shares of Common Stock on the terms and conditions set forth in this Section 8.

(a) Mandatory Conversion – IPO. Upon consummation of the IPO, each share of Series A Preferred Stock shall automatically convert, through no further action on the part of the Corporation or the Holder, into that number of shares of Common Stock equal to the quotient of (A) the Conversion Amount divided by (B) the Conversion Price. For the purpose of this Section 8(a), the "Conversion Price" shall be equal to fifty percent (50%) of the IPO Price to Public (rounded to two decimal places); *provided*; *however*, that in no event shall the Conversion Price be greater than $3.00 or nor less than $2.25, in each case as adjusted for stock splits, stock dividends, stock combinations, recapitalizations, or the like that occur after the Original Issuance Date in accordance with Section 13.

(b) Mandatory Conversion – Financing. Upon consummation of a Subsequent Placement approved by the Required Holders pursuant to Section 4(k) of the Securities Purchase Agreement, each share of Series A Preferred Stock shall automatically convert, through no further action on the part of the Corporation or the Holder, into that number of shares of Common Stock equal to the quotient of (A) the Conversion Amount divided by (B) the Conversion Price. For the purposes of this Section 8(b), the "Conversion Price" shall be equal to fifty percent (50%) of the purchase price of the securities being sold by the Corporation in such Subsequent Placement (rounded to two decimal places); *provided*; *however*, that in no event shall the Conversion Price be greater than $3.00 or nor less than $2.25, in each case as adjusted for stock splits, stock dividends, stock combinations, recapitalizations, or the like that occur after the Original Issuance Date in accordance with Section 13.

(c) Optional Conversion. At any time after the Issuance Date and until ten (10) calendar days prior to the consummation of the IPO (as set forth in the IPO Notice), each Holder shall be entitled to convert its Series A Preferred Stock into that number of shares of Common Stock equal to the quotient of (A) the Conversion Amount divided by (B) the Conversion Price. For the purposes of this Section 8(c), the "**Conversion Price**" shall be equal to $3.00, as adjusted for stock splits, stock dividends, stock combinations, recapitalizations, or the like that occur after the Issuance Date in accordance with Section 13.

(d) Mechanics of Conversion. To convert Series A Preferred stock pursuant to Sections 8(c) above into shares of Common Stock on any date (a "**Conversion Date**"), the Holder shall deliver (whether via facsimile or otherwise) a copy of a properly and fully-completed and executed notice of conversion in the form attached hereto as Exhibit A (the "**Conversion Notice**") to the Corporation. On or before the second Business Day following the date of receipt of such Conversion Notice, the Corporation shall transmit by facsimile or email (by attachment in PDF format) an acknowledgment of confirmation of receipt of such Conversion Notice to the Holder and the Corporation's transfer agent (the "**Transfer Agent**"). On or before the third Business Day following the date of receipt of a Conversion Notice or the triggering of a mandatory conversion pursuant to Section 8(a) or 8(b) above, the Corporation shall instruct the Transfer Agent to issue and deliver (via reputable overnight courier) to the Holder a certificate, registered in the name of the Holder or its designee, for the number of shares of Common Stock to which the Holder shall be entitled, with the legends required by the Securities Purchase Agreement or applicable law. The Holder shall not be required to physically surrender the Series A Preferred Stock in connection with any conversion in accordance with this Section 8.

(e) No Fractional Shares; Transfer Taxes. The Corporation shall not issue any fraction of a share of Common Stock upon any conversion. If the issuance would result in the issuance of a fraction of a share of Common Stock, the Corporation shall round such fraction of a share of Common Stock up to the nearest whole share. The Corporation shall pay any and all transfer, stamp, issuance and similar taxes that may be payable with respect to the issuance and delivery of Common Stock upon any conversion.

(f) Announcement of Initial Public Offering. After such time as the Company determines that it will consummate an IPO, it shall send a notice to the Holder (the "**IPO Notice**") of the proposed consummation date of the IPO (the expected date of such consummation is the "**Announced IPO Date**"), but such IPO Notice shall be dispatched in any event no later than ten (10) calendar days prior to such Announced IPO Date. To the extent that the Announced IPO Date is subsequently advanced or delayed, the Company shall send an amended IPO Notice of the revised proposed consummation date of the IPO to the Holder; provided, however, the Company may not advance the Announced IPO Date to a date less than five (5) Business Days after the date of the latest amending IPO Notice. If any Announced IPO Date is delayed, the amending IPO Notice will be deemed the establishment of a new Announced IPO Date and any Conversion Notice given based on a previously Announced IPO Date will be deemed cancelled unless the Holder affirms in writing the Conversion Notice as given.

9. Redemption Rights.

(a) No Optional Redemption. The Corporation shall have no right to redeem the Series A Preferred Stock except as set forth in this Section 9.

(b) Mandatory Cash Redemption. On December 31, 2018, subject to extension upon the prior written approval of the Required Holders (the "**Mandatory Redemption Date**"), the Corporation shall repurchase all of the outstanding shares of Series A Preferred Stock at a price equal to the Stated Value (as adjusted for any stock split, stock dividend, stock combination or other similar transactions with respect to the Series A Preferred Stock) of such shares of Series A Preferred Stock, plus all accrued but unpaid dividends thereon to the date of payment (the "**Redemption Price**"), in cash ("**Mandatory Cash Redemption**").

(c) Redemption In-Kind. Upon an Event of Default, and while the Event of Default is continuing, the Required Holders may elect in writing to cause the Corporation ("**Mandatory Redemption Notice**") to repurchase the Series A Preferred Stock through the Corporation's distribution of the assets of the Corporation having a value equal to the Redemption Price to the Holders or, upon the election of the Required Holders, a trust or other entity established by the Required Holders for purposes of receiving the assets of the Corporation ("**Mandatory In-Kind Redemption**"). Within ten days of the Corporation's receipt of the Mandatory Redemption Notice, the Corporation shall hire an independent nationally recognized valuation firm ("**Valuation Firm**") not unacceptable to the Required Holders for purposes of determining the fair market value of the Corporation's assets ("**Valuation**"). The Valuation Firm shall conduct the Valuation using such criteria and methodologies as are proposed by the Valuation Firm and not unacceptable to the Corporation or the Required Holders. The Valuation shall assign fair market values to each significant group of assets (each an "**Asset Class**") of the Corporation. The Valuation Firm shall deliver the Valuation no later than thirsty (30) days of its engagement. In the event that the Valuation is less than the Redemption Price, the Corporation shall distribute to the Holders all of the assets of the Corporation within ten (10) days of the Valuation Firm's delivery of the Valuation. If the Valuation is greater than the Redemption Price, the Corporation shall distribute to the Holders a proportional amount of each Asset Class equal to the Valuation amount assigned to each Asset Class by the Valuation Firm multiplied by a fraction the denominator of which is the Valuation and the numerator is the Redemption Price. Each Holder shall be entitled to receive its proportional share of distributed assets in each Asset Class equal to the Valuation amount assigned to the distributed assets in each Asset Class multiplied by a fraction the denominator of which is the aggregate Redemption Price for all Holders and the numerator is the Redemption Price for such Holder. From the time of the Corporation's receipt of the Mandatory Redemption Notice until the Corporation's distribution of the assets in accordance with this Section 9(c), the Corporation shall take no action to sell, transfer or diminish the assets of the Corporation except (i) in the ordinary course of business or (ii) as approved in writing by the required Holders.

(d) Mechanics of Redemption. Upon receipt of payment of the Redemption Price by the Holders of Series A Preferred Stock in the event of a Mandatory Cash Redemption or the Holders' receipt of their proportional share of the assets of the Corporation in the event of a Mandatory In-Kind Redemption, each Holder will deliver the certificate(s) evidencing the Series A Preferred Stock to be redeemed by the Corporation, unless such Holder is awaiting receipt of a new certificate evidencing such shares from the Corporation pursuant to another provision hereof.

10. Reservation of Common Stock. The Corporation shall at all times reserve and keep available for issuance upon the conversion of shares of Series A Preferred Stock, such number of its authorized but unissued shares of Common Stock as will from time to time be sufficient to permit the conversion of all outstanding shares of Series A Preferred Stock, and shall take all action to increase the authorized number of shares of Common Stock if at any time there shall be insufficient authorized but unissued shares of Common Stock to permit such reservation or to permit the conversion of all outstanding shares of Series A Preferred Stock; provided, that the Holders vote such shares in favor of any such action that requires a vote of stockholders.

11. Charges, Taxes and Expenses. The issuance of certificates for shares of Series A Preferred Stock and for Underlying Shares issued upon conversion of (or otherwise in respect of) the Series A Preferred Stock shall be made without charge to the Holders for any issue or transfer tax, withholding tax, transfer agent fee or other incidental tax or expense in respect of the issuance of such certificates, all of which taxes and expenses shall be paid by the Corporation; provided, however, that the Corporation shall not be required to pay any tax that may be payable in respect of any transfer involved in the registration of any certificates for Common Stock or Series A Preferred Stock in a name other than that of the Holder. The Holder shall be responsible for all other tax liability that may arise as a result of holding or transferring the Series A Preferred Stock or receiving Underlying Shares in respect of the Series A Preferred Stock.

12. Replacement Certificates. If any certificate evidencing Series A Preferred Stock or Underlying Shares is mutilated, lost, stolen or destroyed, the Corporation shall issue or cause to be issued in exchange and substitution for and upon cancellation thereof, or in lieu of and substitution for such certificate, a new certificate, but only upon receipt of evidence reasonably satisfactory to the Corporation of such loss, theft or destruction and customary and reasonable indemnity, if requested. Applicants for a new certificate under such circumstances shall also comply with such other reasonable regulations and procedures and pay such other reasonable third-party costs as the Corporation may prescribe.

13. Certain Adjustments. The Conversion Price is subject to adjustment from time to time as set forth in this Section 13.

(a) Stock Dividends and Splits. If the Corporation, at any time while any shares of Series A Preferred Stock are outstanding, (i) pays a stock dividend on its Common Stock or otherwise makes a distribution on any class of capital stock that is payable in shares of Common Stock, (ii) subdivides outstanding shares of Common Stock into a larger number of shares, or (iii) combines outstanding shares of Common Stock into a smaller number of shares, then in each such case the Conversion Price shall be multiplied by a fraction of which the numerator shall be the number of shares of Common Stock outstanding immediately before such event and of which the denominator shall be the number of shares of Common Stock outstanding immediately after such event. Any adjustment made pursuant to clause (i) of this paragraph shall become effective immediately following the close of business on the record date for the determination of stockholders entitled to receive such dividend or distribution, and any adjustment pursuant to clause (ii) or (iii) of this paragraph shall become effective immediately following the close of business on the effective date of such subdivision or combination.

(b) Fundamental Transactions. If, at any time while any shares of Series A Preferred Stock are outstanding, (i) the Corporation effects any merger of the Corporation into or consolidation of the Corporation with another Person, (ii) the Corporation effects any sale of all or substantially all of its assets in one or a series of related transactions, or (iii) the Corporation effects any reclassification 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 (other than as a result of a subdivision or combination of shares of Common Stock covered by Section 13(a) above) (in any such case, a "**Fundamental Transaction**"), then upon any subsequent conversion of Series A Preferred Stock, each Holder shall have the right to receive, for each Underlying Share that would have been issuable upon such conversion absent such Fundamental Transaction, the same kind and amount of securities, cash or property as it would have been entitled to receive upon the occurrence of such Fundamental Transaction if it had been, immediately prior to such Fundamental Transaction, the record holder of such Underlying Shares immediately prior to such record date (the "**Alternate Consideration**"). For purposes of any such conversion, the determination of the Conversion 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 Corporation shall apportion the Conversion Price among the Alternate Consideration in a manner reasonably acceptable to the holders of more than 50% of the outstanding shares of Series A Preferred Stock 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 each Holder shall be given the same choice as to the Alternate Consideration it receives upon any conversion of Series A Preferred Stock following such Fundamental Transaction. To the extent necessary to effectuate the foregoing provisions, any successor to the Corporation or surviving entity in such Fundamental Transaction shall issue to the Holder a new series of preferred stock consistent with the foregoing provisions and evidencing the Holders' right to convert such preferred stock into Alternate Consideration. The terms of any agreement pursuant to which a Fundamental Transaction is effected shall include terms requiring any such successor or surviving entity to comply with the provisions of this Section 13 and insuring that the Series A Preferred Stock (or any such replacement security) will be similarly adjusted upon any subsequent transaction analogous to a Fundamental Transaction.

(c) Calculations. All calculations under this Section 13 shall be made to the nearest cent or the nearest 1/100th of a share, as applicable. The number of shares of Common Stock outstanding at any given time shall not include shares owned or held by or for the account of the Corporation, and the disposition of any such shares shall be considered an issue or sale of Common Stock.

(d) Notice of Adjustments. Upon the occurrence of each adjustment pursuant to this Section 13, the Corporation at its expense will promptly compute such adjustment in accordance with the terms hereof and prepare a certificate describing in reasonable detail such adjustment and the transactions giving rise thereto, including all facts upon which such adjustment is based. Upon written request, the Corporation will promptly deliver a copy of each such certificate to each Holder.

(e) Notice of Corporate Events. If the Corporation (i) declares a dividend or any other distribution of cash, securities or other property in respect of its Junior Stock, including, without limitation, any granting of rights or warrants to subscribe for or purchase any capital stock of the Corporation or any subsidiary, or (ii) authorizes or approves, enters into any agreement contemplating or solicits stockholder approval for any Liquidation Event or Fundamental Transaction then the Corporation shall deliver to each Holder a notice which shall specify (A) the record date for the purposes of such dividend, distribution of cash, securities or property or vote of the stockholders of the Corporation, or if a record is not to be taken, the date as of which the holders of shares of Common Stock of record to be entitled to such dividend, distribution of cash, securities or other property or vote of the stockholders is to be determined, (B) the date on which such Liquidation Event or Fundamental Transaction is expected to become effective, and (C) the material terms and conditions of such transaction, at least ten Business Days prior to the applicable record or effective date on which a Person would need to hold Common Stock in order to participate in or vote with respect to such transaction, and the Corporation will take all steps reasonably necessary in order to insure that each Holder is given the practical opportunity to convert its Series A Preferred Stock prior to such time so as to participate in or vote with respect to such transaction; provided, however, that the failure to deliver such notice or any defect therein shall not affect the validity of the corporate action required to be described in such notice.

14. Fractional Shares. The Corporation shall not be required to issue or cause to be issued fractional Underlying Shares upon conversion of Series A Preferred Stock. If any fraction of an Underlying Share would, except for the provisions of this Section, be issuable upon conversion of Series A Preferred Stock, the number of Underlying Shares to be issued will be rounded up to the nearest whole share.

15. Notices. Any and all notices or other communications or deliveries hereunder (including without limitation any Conversion Notice) shall be in writing and shall be deemed given and effective on the earliest of (i) the date of transmission, if such notice or communication is delivered via facsimile at the facsimile number specified in this Section prior to 3:30 p.m. (California time) on a Business Day, (ii) the next Business Day after the date of transmission, if such notice or communication is delivered via facsimile at the facsimile number specified in this Section on a day that is not a Business Day or later than 3:30 p.m. (California time) on any Business Day, (iii) the Business Day following the date of mailing, if sent by nationally recognized overnight courier service, or (iv) upon actual receipt by the party to whom such notice is required to be given. The addresses for such communications shall be: (i) if to the Corporation, to 12264 El Camino Real, Suite 350, San Diego, CA 92130, facsimile: (858) 345-1743, attention Chief Executive Officer, or (ii) if to a Holder, to the address or facsimile number appearing on the Corporation's stockholder records or such other address or facsimile number as such Holder may provide to the Corporation in accordance with this Section 15.

16. Dispute Resolution. In the case of a dispute as to the determination of the fair value of consideration other than cash or securities, or the arithmetic calculation of the Conversion Rate or the Redemption Price, the Corporation shall, as soon as practicable upon discovery, and following a good faith effort to resolve the dispute with the Holder, submit (a) the disputed determination of the fair value of consideration other than cash or securities to an independent, reputable investment bank selected by the Corporation or (b) the disputed arithmetic calculation of the Conversion Rate or the Redemption Price to the Corporation's independent, outside accountant. The Corporation, at the Corporation's expense, shall cause the investment bank or the accountant, as the case may be, to perform the determinations or calculations and notify the Corporation and the Holder of the results no later than five (5) Business Days from the time it receives the disputed determinations or calculations. Such investment bank's or accountant's determination or calculation, as the case may be, shall be binding upon all parties absent demonstrable error.

17. Event of Default.

(a) Each of the following events shall constitute an "**Event of Default**":

(i) any default by the Corporation with respect to any provision, condition or requirement of this Certificate of Designations;

(ii) any breach of Sections 4(k), 4(l), 4(m), or 4(w) of the Securities Purchase Agreement;

(iii) liquidation proceedings shall be instituted by or against the Corporation and, if instituted against the Corporation by a third party, shall not be dismissed within sixty (60) days of their initiation;

(iv) bankruptcy, insolvency, reorganization or liquidation proceedings or other proceedings for the relief of debtors shall be instituted by or against the Corporation and, if instituted against the Corporation by a third party, shall not be dismissed within sixty (60) days of their initiation;

(v) the commencement by the Corporation of a voluntary case or proceeding under any applicable federal, state or foreign bankruptcy, insolvency, reorganization or other similar law or the consent by it to the entry of a decree, order, judgment or other similar document in respect of the Corporation in an involuntary case or proceeding under any applicable federal, state or foreign bankruptcy, insolvency, reorganization or other similar law or to the commencement of any bankruptcy or insolvency case or proceeding against it, or the filing by it of a petition or answer or consent seeking reorganization or relief under any applicable federal, state or foreign law, or the consent by it to the filing of such petition or to the appointment of or taking possession by a custodian, receiver, liquidator, assignee, trustee, sequestrator or other similar official of the Corporation or of any substantial part of its property, or the making by it of an assignment for the benefit of creditors, or the execution of a composition of debts, or the occurrence of any other similar federal, state or foreign proceeding, or the admission by it in writing of its inability to pay its debts generally as they become due, the taking of corporate action by the Corporation in furtherance of any such action; or

(vi) the entry by a court of (i) a decree, order, judgment or other similar document in respect of the Corporation of a voluntary or involuntary case or proceeding under any applicable federal, state or foreign bankruptcy, insolvency, reorganization or other similar law; or (ii) a decree, order, judgment or other similar document adjudging the Corporation as bankrupt or insolvent, or approving as properly filed a petition seeking liquidation, reorganization, arrangement, adjustment or composition of or in respect of the Corporation under any applicable federal, state or foreign law; or (iii) a decree, order, judgment or other similar document appointing a custodian, receiver, liquidator, assignee, trustee, sequestrator or other similar official of the Corporation or of any substantial part of its property, or ordering the winding up or liquidation of its affairs, and the continuance of any such decree, order, judgment or other similar document or any such other decree, order, judgment or other similar document unstayed and in effect for a period of sixty (60) consecutive days.

(vii) bankruptcy, insolvency, reorganization or other proceedings for the relief of debtors shall be instituted against the Corporation and shall not be dismissed within sixty (60) days of their initiation;

(viii) a final judgment or judgments for the payment of money aggregating in excess of $500,000 are rendered against the Corporation and which judgments are not, within sixty (60) days after the entry thereof, satisfied, bonded, discharged or stayed pending appeal, or are not satisfied, bonded or discharged within sixty (60) days after the expiration of such stay;

(ix) the Corporation fails to pay, when due, or within any applicable grace period, any payment with respect to any indebtedness in excess of $500,000 due to any third party (other than, with respect to unsecured indebtedness only, payments contested by the Corporation in good faith by proper proceedings and with respect to which adequate reserves have been set aside for the payment thereof in accordance with GAAP) or is otherwise in breach or violation of any agreement for monies owed or owing by the Corporation in an amount in excess of $500,000, which breach or violation permits the other party thereto to declare a default or otherwise accelerate amounts due thereunder;

(x) other than as specifically set forth in another clause of this Section 17(a), the Corporation breaches any material covenant or other term or condition of any Transaction Document, if such breach remains uncured for a period of thirty (30) days after actual knowledge of the Company of such breach, or any representation or warranty made by the Corporation in any Transaction Document is not accurate in any material respect when made or deemed made; or

(xi) the validity or enforceability of any provision of any Transaction Document shall be contested by the Corporation, or a proceeding shall be commenced by the Corporation seeking to establish the invalidity or unenforceability thereof.

(b) Notice of an Event of Default. Upon the occurrence of an Event of Default, the Corporation shall within two (2) Business Days deliver written notice thereof via facsimile and overnight courier (with next day delivery specified) (an "**Event of Default Notice**") to the Holders.

18. Miscellaneous.

(a) The headings herein are for convenience only, do not constitute a part of this Certificate of Designations and shall not be deemed to limit or affect any of the provisions hereof.

(b) No provision of this Certificate of Designations may be amended, except in a written instrument signed by the Corporation and the Required Holders.

(c) The Series A Preferred Stock is (i) senior to all other equity interests in the Corporation outstanding as of the Original Issue Date in right of payment, whether with respect to dividends or upon liquidation or dissolution, or otherwise and (ii) will be senior to all other equity or equity equivalent securities issued by the Corporation after the Original Issue Date.

(d) Any of the rights of the Holders of Series A Preferred Stock set forth herein may be waived by the affirmative vote of the Required Holders. No waiver of any default with respect to any provision, condition or requirement of this Certificate of Designations 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 either party to exercise any right hereunder in any manner impair the exercise of any such right.

FIFTH: Whenever a compromise or arrangement is proposed between this Corporation and its creditors or any class of them and/or between this Corporation and its stockholders or any class of them, any court of equitable jurisdiction within the State of Delaware may, on the application in a summary way of this Corporation or any creditor or stockholder thereof or on the application of any receiver or receivers appointed for this Corporation under the provisions of Section 291 of the DGCL or on the application of trustees in dissolution or of any receiver or receivers appointed for this Corporation under the provisions Section 279 of the DGCL order a meeting of the creditors or class of creditors, and/or of the stockholders or class of stockholders, of this Corporation, as the case may be, to be summoned in such manner as the said court directs. If a majority in number representing three-fourths in value of the creditors or class of creditors, and/or of the stockholders or class of stockholders, of this Corporation, as the case may be, agree to any compromise or arrangement and to any reorganization of this Corporation as a consequence of such compromise or arrangement, the said compromise or arrangement and the said reorganization shall, if sanctioned by the court to which the said application has been made, be binding on all the creditors or class of creditors, and/or on all the stockholders or class of stockholders, of this Corporation, as the case may be, and also on this Corporation.

SIXTH: The original Bylaws of the Corporation shall be adopted by the incorporator. Thereafter, subject to Section 4.2(d) herein, the power to make, alter, or repeal the Bylaws, and to adopt any new Bylaw, shall be vested in the Board of Directors.

SEVENTH: To the fullest extent that the DGCL, as it exists on the date hereof or as it may hereafter be amended, permits the limitation or elimination of the liability of directors, no director of this Corporation shall be personally liable to this Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director. Notwithstanding the foregoing, a director shall be liable to the extent provided by applicable law: (a) for any breach of the directors' duty of loyalty to the Corporation or its stockholders; (b) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; (c) under Section 174 of the DGCL; or (4) for any transaction from which the director derived any improper personal benefit. Neither the amendment nor repeal of this Article, nor the adoption of any provision of this Certificate of Incorporation inconsistent with this Article, shall adversely affect any right or protection of a director of the Corporation existing at the time of such amendment or repeal.

EIGHTH: The Corporation shall, to the fullest extent permitted by DGCL Section 145, as the same may be amended and supplemented, indemnify any and all persons whom it shall have power to indemnify under said section from and against any and all of the expenses, liabilities or other matters referred to in or covered by said section. The Corporation shall advance expenses to the fullest extent permitted by said section. Such right to indemnification and advancement of expenses shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person. The indemnification and advancement of expenses provided for herein shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under any Bylaw, agreement, vote of stockholders or disinterested directors or otherwise.

IN WITNESS WHEREOF, this Amended and Restated Certificate of Incorporation has been executed by a duly authorized officer of this Corporation on this 15th day of June, 2017.

ETON PHARMACEUTICALS, INC.

By: /s/ Mark L. Baum
Name: Mark L. Baum
Title: Executive Director

EXHIBIT A

FORM OF CONVERSION NOTICE

(To be executed by the registered Holder
in order to convert shares of Series A Preferred Stock)

The undersigned hereby elects to convert the number of shares of Series A Convertible Preferred Stock indicated below into shares of common stock, $0.001 par value (the "**Common Stock**"), of Eton Pharmaceuticals, Inc., a Delaware corporation (the "**Corporation**"), according to the conditions hereof, as of the date written below.

Date to Effect Conversion

Number of shares of Series A Preferred Stock owned prior to Conversion

Number of shares of Series A Preferred Stock to be Converted

Stated Value of shares of Series A Preferred Stock to be Converted

Number of shares of Common Stock to be Issued

Applicable Conversion Price

Number of shares of Series A Preferred Stock subsequent to Conversion

Name of Holder

By: _____
Name: _____
Title: _____

Exhibit 3.2

BYLAWS
OF
ETON PHARMACEUTICALS, INC.
a Delaware corporation

ARTICLE 1

OFFICES

Section 1.1 Registered Office.

The registered office of Eton Pharmaceuticals, Inc. (the "Corporation") in the State of Delaware shall be set forth in the Certificate of Incorporation of the Corporation.

Section 1.2 Other Offices.

The Corporation may also have offices at such other places, either within or without the State of Delaware, as the Board of Directors may from time to time determine or the business of the Corporation may require.

ARTICLE 2

STOCKHOLDERS' MEETINGS

Section 2.1 Place of Meetings.

(a) Meetings of stockholders may be held at such place, either within or without the State of Delaware, as may be designated by or in the manner provided in these Bylaws or, if not so designated, as determined by the Board of Directors. The Board of Directors may, in its sole discretion, determine that the meeting shall not be held at any place, but may instead be held solely by means of remote communication as authorized by paragraph of this Section 2.1.

(b) If authorized by the Board of Directors in its sole discretion, and subject to such guidelines and procedures as the Board of Directors may adopt, stockholders and proxyholders not physically present at a meeting of stockholders may, by means of remote communication:

(i) Participate in a meeting of stockholders; and

(ii) Be deemed present in person and vote at a meeting of stockholders whether such meeting is to be held at a designated place or solely by means of remote communication, provided that the Corporation shall implement reasonable measures to verify that each person deemed present and permitted to vote at the meeting by means of remote communication is a stockholder or proxyholder, the Corporation shall implement reasonable measures to provide such stockholders and proxyholders a reasonable opportunity to participate in the meeting and to vote on matters submitted to the stockholders, including an opportunity to read or hear the proceedings of the meeting substantially concurrently with such proceedings, and if any stockholder or proxyholder votes or takes other action at the meeting by means of remote communication, a record of such vote or other action shall be maintained by the Corporation.

(c) For purposes of these Bylaws, "remote communication" shall include (1) telephone or other voice communications and (2) electronic mail or other form of written or visual electronic communications satisfying the requirements of Section 2.11(b).

Section 2.2 Annual Meetings.

The annual meetings of the stockholders of the Corporation, for the purpose of election of directors and for such other business as may lawfully come before it, shall be held on such date and at such time as may be designated from time to time by the Board of Directors.

Section 2.3 Special Meetings.

Special meetings of the stockholders of the Corporation may be called, for any purpose or purposes, by the Chairman of the Board or the President or the Board of Directors at any time. Only such business shall be brought before a special meeting of stockholders as shall have been specified in the notice of such meeting.

Section 2.4 Notice of Meetings.

(a) Except as otherwise provided by law or the Certificate of Incorporation, written notice of each meeting of stockholders, specifying the place, if any, date and hour and purpose or purposes of the meeting, and the means of remote communication, if any, by which stockholders.. and proxyholders may be deemed to be present in person and vote at such meeting, and the record date for determining the stockholders entitled to vote at the meeting, if such date is different from the record date for determining stockholders entitled to notice of the meeting, shall be given not less than 10 nor more than 60 days before the date of the meeting to each stockholder entitled to vote thereat, directed to his address as it appears upon the books of the Corporation; except that where the matter to be acted on is a merger or consolidation of the Corporation or a sale, lease or exchange of all or substantially all of its assets, such notice shall be given not less than 20 nor more than 60 days prior to such meeting. If the Board of Directors fixes a date for detennining the stockholders entitled to notice of a meeting of stockholders, such date shall also be the record date for determining the stockholders entitled to vote at such meeting, unless the Board of Directors determines, at the time it fixes such record date, that a later date on or before the date of the meeting shall be the date for making such determination.

(b) If at any meeting action is proposed to be taken which, if taken, would entitle stockholders fulfilling the requirements of Section 262 of the Delaware General Corporation Law to an appraisal of the fair value of their shares, the notice of such meeting shall contain a statement of that purpose and to that effect and shall be accompanied by a copy of that statutory section.

(c) When a meeting is adjourned to another time or place, notice need not be given of the adjourned meeting if the time, place, if any, thereof, and the means of remote communication, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at such adjourned meeting, are announced at the meeting at which the adjournment is taken unless the adjournment is for more than thirty days, or unless after the adjournment a new record date is fixed for the adjourned meeting, in which event a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting; provided, however, that the Board of Directors may fix a new record date for determination of stockholders entitled to vote at the adjourned meeting, and in such case shall also fix as the record date for stockholders entitled to notice of such adjourned meeting the same or an earlier date as that fixed for determination of stockholders entitled to vote at the adjourned meeting.

(d) Notice of the time, place and purpose of any meeting of stockholders may be waived in writing, either before or after such meeting, and, to the extent permitted by law, will be waived by any stockholder by his attendance thereat, in person or by proxy. Any stockholder so waiving notice of such meeting shall be bound by the proceedings of any such meeting in all respects as if due notice thereof had been given.

(e) Without limiting the manner by which notice otherwise may be given effectively to stockholders, any notice to stockholders given by the Corporation under any provision of Delaware General Corporation Law, the Certificate of Incorporation, or these Bylaws shall be effective if given by a form of electronic transmission consented to by the stockholder to whom the notice is given. Any such consent shall be revocable by the stockholder by written notice to the Corporation. Any such consent shall be deemed revoked if (i) the Corporation is unable to deliver by electronic transmission two consecutive notices given by the Corporation in accordance with such consent, and (ii) such inability becomes known to the Secretary or an Assistant Secretary of the Corporation or to the transfer agent or other person responsible for the giving of notice; provided, however, the inadvertent failure to treat such inability as a revocation shall not invalidate any meeting or other action. Notice given pursuant to this subparagraph shall be deemed given: (1) if by facsimile telecommunication, when directed to a number at which the stockholder has consented to receive notice; (2) if by electronic mail, when directed to an electronic mail address at which the stockholder has consented to receive notice; (3) if by a posting on an electronic network together with separate notice to the stockholder of such specific posting, upon the later of such posting and the giving of such separate notice; and (4) if by any other form of electronic transmission, when directed to the stockholder. An affidavit of the Secretary or an Assistant Secretary or of the transfer agent or other agent of the Corporation that the notice has been given by a form of electronic transmission shall, in the absence of fraud, be prima facie evidence of the facts stated therein. For purposes of these Bylaws, "electronic transmission" means any form of communication, not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process.

Section 2.5 Quorum and Voting.

(a) At all meetings of stockholders except where otherwise provided by law, the Certificate of Incorporation or these Bylaws, the presence, in person or by proxy duly authorized, of the holders of a majority of the outstanding shares of stock entitled to vote shall constitute a quorum for the transaction of business. Shares, the voting of which at said meeting have been enjoined, or which for any reason cannot be lawfully voted at such meeting, shall not be counted to determine a quorum at said meeting. In the absence of a quorum, any meeting of stockholders may be adjourned, from time to time, by vote of the holders of a majority of the shares represented thereat, but no other business shall be transacted at such meeting. At such adjourned meeting at which a quorum is present or represented, any business may be transacted which might have been transacted at the original meeting. The stockholders present at a duly called or convened meeting at which a quorum is present may continue to transact business until adjournment, notwithstanding the withdrawal of enough stockholders to leave less than a quorum.

(b) Except as otherwise provided by law, the Certificate of Incorporation or these Bylaws, all action taken by the holders of a majority of the votes cast on a matter affirmatively or negatively shall be valid and binding upon the Corporation. For purposes of these Bylaws, a share present at a meeting, but for which there is an abstention or as to which a stockholder gives no authority or direction as to a particular proposal or director nominee, shall be counted as present for the purpose of establishing a quorum but shall not be counted as a vote cast.

(c) Where a separate vote by a class or classes is required, a majority of the outstanding shares of such class or classes present in person or represented by proxy shall constitute a quorum entitled to take action with respect to that vote on that matter, and the affirmative vote of the majority of votes cast of such class or classes present in person or represented by proxy at the meeting shall be the act of such class.

Section 2.6 Voting Rights.

(a) Except as otherwise provided by law, only persons in whose names shares entitled to vote stand on the stock records of the Corporation on the record date for determining the stockholders entitled to vote at said meeting shall be entitled to vote at such meeting. Shares standing in the names of two or more persons shall be voted or represented in accordance with the determination of the majority of such persons, or, if only one of such persons is present in person or represented by proxy, such person shall have the right to vote such shares and such shares shall be deemed to be represented for the purpose of detennining a quorum.

(b) Every person entitled to vote or to execute consents shall have the right to do so either in person or by an agent or agents authorized by a written proxy executed by such person or his duly authorized agent, which proxy shall be filed with the Secretary of the Corporation at or before the meeting at which it is to be used. Said proxy so appointed need not be a stockholder. No proxy shall be voted on after three (3) years from its date unless the proxy provides for a longer period. Unless and until voted, every proxy shall be revocable at the pleasure of the person who executed it or of his legal representatives or assigns, except in those cases where an irrevocable proxy permitted by statute has been given.

(c) Without limiting the manner in which a stockholder may authorize another person or persons to act for him as proxy pursuant to subsection of this section, the following shall constitute a valid means by which a stockholder may grant such authority:

(i) A stockholder may execute a writing authorizing another person or persons to act for him as proxy. Execution may be accomplished by the stockholder or his authorized officer, director, employee or agent signing such writing or causing his or her signature to be affixed to such writing by any reasonable means including, but not limited to, by facsimile signature.

(ii) A stockholder may authorize another person or persons to act for him as proxy by transmitting or authorizing the transmission of an electronic transmission to the person who will be the holder of the proxy or to a proxy solicitation firm, proxy support service organization or like agent duly authorized by the person who will be the holder of the proxy to receive such transmission, provided that any such transmission must either set forth or be submitted with information from which it can be determined that the transmission was authorized by the stockholder. Such authorization can be established by the signature of the stockholder on the proxy, either in writing or by a signature stamp or facsimile signature, or by a number or symbol from which the identity of the stockholder can be determined, or by any other procedure deemed appropriate by the inspectors or other persons making the determination as to due authorization. If it is determined that such transmissions are valid, the inspectors or, if there are no inspectors, such other persons making that determination shall specify the information upon which they relied.

(d) Any copy, facsimile telecommunication or other reliable reproduction of the writing or transmission created pursuant to subsection of this section may be substituted or used in lieu of the original writing or transmission for any and all purposes for which the original writing or transmission could be used, provided that such copy, facsimile telecommunication or other reproduction shall be a complete reproduction of the entire original writing or transmission.

Section 2.7 Voting Procedures and Inspectors of Elections.

(a) The Corporation shall, in advance of any meeting of stockholders, appoint one or more inspectors to act at the meeting and make a written report thereof. The Corporation may designate one or more persons as alternate inspectors to replace any inspector who fails to act. If no inspector or alternate is able to act at a meeting of stockholders, the person presiding at the meeting shall appoint one or more inspectors to act at the meeting. Each inspector, before entering upon the discharge of his duties, shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of his ability.

(b) The inspectors shall (i) ascertain the number of shares outstanding and the voting power of each, (ii) determine the shares represented at a meeting and the validity of proxies and ballots, (iii) count all votes and ballots, (iv) determine and retain for a reasonable period a record of the disposition of any challenges made to any determination by the inspectors, and (v) certify their determination of the number of shares represented at the meeting and their count of all votes and ballots. The inspectors may appoint or retain other persons or entities to assist the inspectors in the performance of the duties of the inspectors.

(c) The date and time of the opening and the closing of the polls for each matter upon which the stockholders will vote at a meeting shall be announced at the meeting. No ballot, proxies or votes, nor any revocations thereof or changes thereto, shall be accepted by the inspectors after the closing of the polls unless the Court of Chancery shall determine otherwise upon application by a stockholder.

(d) In determining the validity and counting of proxies and ballots, the inspectors shall be limited to an examination of the proxies, any envelopes submitted with those proxies, any information provided in accordance with Sections 211 or 212(c)(2) of the Delaware General Corporation Law, or any information provided pursuant to Section 211(a)(2)(B)(i) or (iii) thereof, ballots and the regular books and records of the Corporation, except that the inspectors may consider other reliable information for the limited purpose of reconciling proxies and ballots submitted by or on behalf of banks, brokers, their nominees or similar persons which represent more votes than the holder of a proxy is authorized by the record owner to cast or more votes than the stockholder holds of record. If the inspectors consider other reliable information for the limited purpose permitted herein, the inspectors at the time they make their certification pursuant to subsection (b)(v) of this section shall specify the precise information considered by them including the person or persons from whom they obtained the information, when the information was obtained, the means by which the information was obtained and the basis for the inspectors' belief that such information is accurate and reliable.

Section 2.8 List of Stockholders.

The officer who has charge of the stock ledger of the Corporation shall prepare and make, at least ten days before every meeting of stockholders, a complete list of the stockholders entitled to vote at said meeting, arranged in alphabetical order, showing the address of and the number of shares registered in the name of each stockholder. The Corporation need not include electronic mail addresses or other electronic contact information on such list. Such list shall be open to the examination of any stockholder for any purpose germane to the meeting for a period of at least 10 days prior to the meeting: (i) on a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of the meeting, or (ii) during ordinary business hours at the principal place of business of the Corporation. In the event that the Corporation determines to make the list available on an electronic network, the Corporation may take reasonable steps to ensure that such information is available only to stockholders of the Corporation. If the meeting is to be held at a place, then the list shall be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any stockholder who is present. If the meeting is to be held solely by means of remote communication, then the list shall also be open to the examination of any stockholder during the whole time of the meeting on a reasonably accessible electronic network, and the information required to access such list shall be provided with the notice of the meeting.

Section 2.9 Stockholder Proposals at Annual Meetings.

At an annual meeting of the stockholders, only such business shall be conducted as shall have been properly brought before the meeting. To be properly brought before an annual meeting, business must be (i) specified in the notice of meeting (or any supplement thereto) given by or at the direction of the Board of Directors, (ii) otherwise properly brought before the meeting by or at the direction of the Board of Directors, or (iii) otherwise properly brought before the meeting by a stockholder who complies with the procedures set forth in this Section 2.9. The foregoing clause (iii) shall be the exclusive means for a stockholder to propose business (other than business included in the Corporation's proxy materials pursuant to Rule 14a-8 under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), if applicable) at an annual meeting of stockholders.

In addition to any other applicable requirements for business to be properly brought before an annual meeting by a stockholder, whether or not the stockholder is seeking to have a proposal included in the Corporation's proxy statement or information statement under Rule 14a- 8 under the Exchange Act, if applicable, the stockholder must have given timely notice thereof in writing to the Secretary of the Corporation. To be timely, in the case of a stockholder seeking to have a proposal included in the Corporation's proxy statement or information statement, a stockholder's notice must be delivered to the Secretary at the Corporation's principal executive offices not less than 120 days or more than 180 days prior to the first anniversary of the date on which the Corporation first mailed its proxy materials (or, in the absence of proxy materials, its notice of meeting) for the previous year's annual meeting of stockholders. However, if the Corporation did not hold an annual meeting the previous year, or if the date of the annual meeting is advanced more than 30 days prior to or delayed by more than 30 days after the anniversary of the preceding year's annual meeting, then to be timely, notice by the stockholder must be delivered to the Secretary at the Corporation's principal executive offices not later than the close of business on the later of (i) the 90th day prior to such annual meeting or (ii) the 15th day following the day on which public announcement of the date of such meeting is first made. If the stockholder is not seeking inclusion of the proposal in the Corporation's proxy statement or information statement, timely notice consists of a stockholder's notice delivered to or mailed and received at the principal executive offices of the Corporation not less than 90 days prior to the date of the annual meeting. In no event shall any adjournment or postponement of an annual meeting or the announcement thereof commence a new time period for the giving of a stockholder's notice as described above. Other than with respect to stockholder proposals relating to director nomination(s), which requirements are set forth in Section 2.10 below, a stockholder's notice to the Secretary shall set forth as to each matter the stockholder proposes to bring before the annual meeting (i) a brief description of the business desired to be brought before the annual meeting and the reasons for conducting such business at the annual meeting, the name and record address of the stockholder proposing such business, (iii) the class and number of shares of the Corporation which are beneficially owned by the stockholder, (iv) any material interest of the stockholder in such business, (v) as to the stockholder giving the notice and any Stockholder Associated Person (as defined below) or any member of such stockholder's immediate family sharing the same household, whether and the extent to which any hedging or other transaction or series of transactions has been entered into by or on behalf of, or any other agreement, arrangement or understanding (including, but not limited to, any short position or any borrowing or lending of shares of stock) has been made, the effect or intent of which is to mitigate loss or increase profit to or manage the risk or benefit of stock price changes for, or to increase or decrease the voting power of, such stockholder, such Stockholder Associated Person or family member with respect to any share of stock of the Corporation (each, a "Relevant Hedge Transaction"), and (vi) as to the stockholder giving the notice and any Stockholder Associated Person or any member of such stockholder's immediate family sharing the same household, to the extent not set forth pursuant to the immediately preceding clause, whether and the extent to which such stockholder, Stockholder Associated Person or family member has direct or indirect beneficial ownership of any option, warrant, convertible security, stock appreciation right, or similar right with an exercise or conversion privilege or a settlement payment or mechanism at a price related to any class or series of shares of the Corporation, whether or not such instrument or right shall be subject to settlement in the underlying class or series of capital stock of the Corporation or otherwise, or any other direct or indirect opportunity to profit or share in any profit derived from any increase or decrease in the value of shares of the Corporation (a "Derivative Instrument"), any rights to dividends on the shares of the Corporation owned beneficially by such stockholder, Stockholder Associated Person or family member that are separated or separable from the underlying shares of the Corporation, any proportionate interest in shares of the Corporation or Derivative Instruments held, directly or indirectly, by a general or limited partnership in which such stockholder, Stockholder Associated Person or family member is a general partner or, directly or indirectly, beneficially owns an interest in a general partner and any performance-related fees (other than an asset-based fee) that such stockholder, Stockholder Associated Person or family member is entitled to based on any increase or decrease in the value of shares of the Corporation or Derivative Instruments, if any, as of the date of such notice (which information shall be supplemented by such stockholder and beneficial owner, if any, not later than 10 days after the record date for the meeting to disclose such ownership as of the record date).

For purposes of this Section 2.9 and Section 2.10, "Stockholder Associated Person" of any stockholder shall mean (i) any person controlling or controlled by, directly or indirectly, or acting in concert with, such stockholder, (ii) any beneficial owner of shares of stock of the Corporation owned of record or beneficially by such stockholder and (iii) any person controlling, controlled by or under common control with such Stockholder Associated Person.

Notwithstanding anything in the Bylaws to the contrary, no business shall be conducted at the annual meeting except in accordance with the procedures set forth in Section 2.1 and this Section 2.9, provided, however, that nothing in this Section 2.9 shall be deemed to preclude discussion by any stockholder of any business properly brought before the annual meeting in accordance with said procedure.

The chairman of an annual meeting shall, if the facts warrant, determine and declare to the meeting that business was not properly brought before the meeting in accordance with the provisions of Section 2.1 and this Section 2.9, and if he should so determine he shall so declare to the meeting, and any such business not properly brought before the meeting shall not be transacted.

Nothing in this Section 2.9 shall affect the right of a stockholder to request inclusion of a proposal in the Corporation's proxy statement or information statement pursuant to Rule 14a-8 under the Exchange Act, if applicable.

Section 2.10 Nominations of Persons for Election to the Board of Directors.

In addition to any other applicable requirements, only persons who are nominated in accordance with the following procedures shall be eligible for election as directors. Nominations of persons for election to the Board of Directors of the Corporation may be made at a meeting of stockholders (i) pursuant to the Corporation's notice of meeting (or any supplement thereto) given by or at the direction of the Board of Directors, (ii) by or at the direction of the Board of Directors, or by any nominating committee or person appointed by the Board of Directors or (iii) by any stockholder of the Corporation entitled to vote for the election of directors at the meeting who complies with the notice procedures set forth in this Section 2.10. The foregoing clause (iii) shall be the exclusive means for a stockholder to make nominations at a meeting of stockholders. A stockholder who complies with the notice procedures set forth in this Section 2.10 is permitted to present the nomination at the meeting of stockholders but is not entitled to have a nominee included in the Corporation's proxy statement in the absence of an applicable rule of the U.S. Securities and Exchange Commission, if applicable, requiring the Corporation to include a director nomination made by a stockholder in the Corporation's proxy statement or information statement.

Such nominations, other than those made by or at the direction of the Board of Directors, shall be made pursuant to timely notice in writing to the Secretary of the Corporation. To be timely, notice by the stockholder must be delivered to the Secretary at the Corporation’s principal executive offices not later than 90 days prior to the date of the annual meeting. In no event shall any adjournment or postponement of an annual meeting or the announcement thereof commence a new time period for the giving of a stockholder's notice as described above. The stockholder's notice relating to director nomination(s) shall set forth as to each person whom the stockholder proposes to nominate for election or re-election as a director, (i) the name, age, business address and residence address of the person, (ii) the principal occupation or employment of the person, (iii) the class and number of shares of the Corporation which are beneficially owned by the person, and (iv) any .other information relating to the person that is required to be disclosed in solicitations for proxies for election of directors pursuant to Regulation 14A under the Exchange Act, if applicable; as to the stockholder giving the notice, (i) the name and record address of the stockholder, and (ii) the class and number of shares of the Corporation which are beneficially owned by the stockholder; as to the stockholder giving the notice and any Stockholder Associated Person (as defined in Section 2.9), to the extent not set forth pursuant to the immediately preceding clause, whether and the extent to which any Relevant Hedge Transaction (as defined in Section 2.9) has been entered into, and as to the stockholder giving the notice and any Stockholder Associated Person, (1) whether and the extent to which any Derivative Instrument (as defined in Section 2.9) is directly or indirectly beneficially owned, (2) any rights to dividends on the shares of the Corporation owned beneficially by such stockholder that are separated or separable from the underlying shares of the Corporation, (3) any proportionate interest in shares of the Corporation or Derivative Instruments held, directly or indirectly, by a general or limited partnership in which such stockholder is a general partner or, directly or indirectly, beneficially owns an interest in a general partner and (4) any performance-related fees (other than an asset-based fee) that such stockholder is entitled to based on any increase or decrease in the value of shares of the Corporation or Derivative Instruments, if any, as of the date of such notice, including without limitation any such interests held by members of such stockholder's immediate family sharing the same household (which information shall be supplemented by such stockholder and beneficial owner, if any, not later than 10 days after the record date for the meeting to disclose such ownership as of the record date). The Corporation may require any proposed nominee to furnish such other information as may reasonably be required by the Corporation to determine the eligibility of such proposed nominee to serve as a director of the Corporation. The stockholder giving such notice shall indemnify the Corporation in respect of any loss arising as a result of any false or misleading information or statement submitted by the nominating stockholder in connection with the nomination, as provided by Section 112(5) of the Delaware General Corporation Law. No person shall be eligible for election as a director of the Corporation unless nominated in accordance with the procedures set forth herein. These provisions shall not apply to nomination of any persons entitled to be separately elected by holders of preferred stock.

For purposes of this Section 2.10, "Stockholder Associated Person" of any stockholder shall mean (i) any person controlling or controlled by, directly or indirectly, or acting in concert with, such stockholder, (ii) any beneficial owner of shares of stock of the Corporation owned of record or beneficially by such stockholder and (iii) any person controlling, controlled by or under common control with such Stockholder Associated Person.

The chairman of the meeting shall, if the facts warrant, determine and declare to the meeting that a nomination was not made in accordance with the foregoing procedure, and if he should so determine, he shall so declare to the meeting and the defective nomination shall be disregarded.

Section 2.11 Action Without Meeting.

(a) Unless otherwise provided in the Certificate of Incorporation, any action required by statute to be taken at any annual or special meeting of stockholders of the Corporation, or any action which may be taken at any annual or special meeting of such stockholders, may be taken without a meeting, without prior notice and without a vote, .if a consent or consents in writing setting forth the action so taken are signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted. To be effective, a written consent must be delivered to the Corporation by delivery to its registered office in Delaware, its principal place of business, or an officer or agent of the Corporation having custody of the book in which proceedings of meetings of stockholders am recorded. Delivery made to a Corporation's registered office shall be by hand or by certified or registered mail, return receipt requested. Every written consent shall bear the date of signature of each stockholder who signs the consent, and no written consent shall be effective to take the corporate action referred to therein unless, within 60 days of the earliest dated consent delivered in the manner required by this section to the Corporation, written consents signed by a sufficient number of holders to take action are delivered to the Corporation in accordance with this section. Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall be given to those stockholders who have not consented in writing.

(b) An electronic transmission consent to an action to be taken and transmitted by a stockholder or proxyholder, or by a person or persons authorized to act for a stockholder or proxyholder, shall be deemed to be written, signed and dated for the purposes of this section, provided that any such electronic transmission sets forth or is delivered with information from which the Corporation can determine (i) that the electronic transmission was transmitted by the stockholder or proxyholder or by a person or persons authorized to act for the stockholder or proxyholder, and (ii) the date on which such stockholder or proxyholder or authorized person or persons transmitted such electronic transmission. The date on which such electronic transmission is transmitted shall be deemed to be the date on which such consent was signed. No consent given by electronic transmission shall be deemed to have been delivered until such consent is reproduced in paper form and until such paper form shall be delivered to the Corporation by delivery to its registered office in the State of Delaware, its principal place of business or an officer or agent of the Corporation having custody of the book in which proceedings of meetings of stockholders are recorded. Delivery made to a Corporation's registered office shall be made by hand or by certified or registered mail, return receipt requested. Notwithstanding the foregoing limitations on delivery, consents given by electronic transmission may be otherwise delivered to the principal place of business of the Corporation or to an officer or agent of the Corporation having custody of the book in which proceedings of meetings of stockholders are recorded if to the extent and in the manner provided by resolution of the Board of Directors of the Corporation.

(c) Any copy, facsimile or other reliable reproduction of a consent in writing may be substituted or used in lieu of the original writing for any and all purposes for which the original writing could be used, provided that such copy, facsimile or other reproduction shall be a complete reproduction of the entire original writing.

ARTICLE 3

DIRECTORS

Section 3.1 Number and Term of Office.

(a) The number of directors of the corporation shall not be less than one (1) nor more than ten (10) until changed by amendment of the Certificate of Incorporation or by a Bylaw amending this Section 3.1 duly adopted by the vote or written consent of holders of a majority of the outstanding shares or by the Board of Directors. The exact number of directors shall be fixed from time to time, within the limits specified in the Certificate of Incorporation or in this Section 3.1, by a bylaw or amendment thereof duly adopted by the vote of a majority of the shares entitled to vote represented at a duly held meeting at which a quorum is present, or by the written consent of the holders of a majority of the outstanding shares entitled to vote, or by the Board of Directors. In no case will a decrease in the number of directors shorten the. term of any incumbent director.

(b) With the exception of the first Board of Directors, which shall be elected by the incorporators, and except as provided in Section 3.3 of this Article III, the directors shall be elected by a plurality vote of the votes cast and entitled to vote on the election of directors at any meeting for the election of directors at which a quorum is present. Elected directors shall hold office until the next annual meeting and until their successors shall be duly elected and qualified. Directors need not be stockholders. If, for any cause, the Board of Directors shall not have been elected at an annual meeting, they may be elected as soon thereafter as convenient at a special meeting of the stockholders called for that purpose in the manner provided in these Bylaws.

Section 3.2 Powers.

The powers of the Corporation shall be exercised, its business conducted and its property controlled by or under the direction of the Board of Directors.

Section 3.3 Vacancies.

Vacancies and newly created directorships resulting from any increase in the authorized number of directors may be filled by a majority of the directors then in office, although less than a quorum, or by a sole remaining director, and each director so elected shall hold office for the unexpired portion of the term of the director whose place shall be vacant and until his successor shall have been duly elected and qualified. A vacancy in the Board of Directors shall be deemed to exist under this section in the case of the death, removal or resignation of any director, or if the stockholders fail at any meeting of stockholders at which directors are to be elected (including any meeting referred to in Section 3.4 below) to elect the number of directors then constituting the whole Board of Directors.

Section 3.4 Resignations and Removals.

(a) Any director may resign at any time by delivering his resignation to the Secretary in writing or by electronic transmission, such resignation to specify whether it will be effective at a particular time, upon receipt by the Secretary or at the pleasure of the Board of Directors. If no such specification is made it shall be deemed effective at the pleasure of the Board of Directors. When one or more directors shall resign from the Board of Directors effective at a future date, a majority of the directors then in office, including those who have so resigned, shall have power to fill such vacancy or vacancies, the vote thereon to take effect when such resignation or resignations shall become effective, and each director so chosen shall hold office for the unexpired portion of the term of the director whose place shall be vacated and until his successor shall have been duly elected and qualified.

(b) At a special meeting of stockholders called for the purpose in the manner hereinabove provided, the Board of Directors or any individual director may be removed from office, with or without cause, and a new director or directors elected by a vote of stockholders holding a majority of the outstanding shares entitled to vote at an election of directors.

Section 3.5 Meetings.

(a) The annual meeting of the Board of Directors shall be held immediately after the annual stockholders' meeting and at the place where such meeting is held or at the place announced by the chairman at such meeting. No notice of an annual meeting of the Board of Directors shall be necessary, and such meeting shall be held for the purpose of electing officers and transacting such other business as may lawfully come before it.

(b) Except as hereinafter otherwise provided, regular meetings of the Board of Directors shall be held at the principal executive office of the Corporation. Regular meetings of the Board of Directors may also be held at any place, within or without the State of Delaware, which has been designated by resolutions of the Board of Directors or the written consent of all directors.

(c) Special meetings of the Board of Directors may be held at any time and place- within or without the State of Delaware whenever called by the Chairman of the Board or, if there is no Chairman of the Board, by the President, or by any of the directors.

(d) Written notice of the time and place of all regular and special meetings of the Board of Directors shall be delivered personally to each director or sent by any form of electronic transmission at least 48 hours before the start of the meeting, or sent by first class mail at least 120 hours before the start of the meeting. Notice of any meeting may be waived in writing at any time before or after the meeting and will be waived by any director by attendance thereat.

Section 3.6 Quorum and Voting.

(a) A quorum of the Board of Directors shall consist of a majority of the exact number of directors fixed from time to time in accordance with Section 3.1 of Article III of these Bylaws, but not less than one; provided, however, at any meeting, whether a quorum be present or otherwise, a majority of the directors present may adjourn from time to time until the time fixed for the next regular meeting of the Board of Directors, without notice other than by announcement at the meeting.

(b) At each meeting of the Board of Directors at which a quorum is present, all questions and business shall be determined by a vote of a majority of the directors present, unless a different vote be required by law, the Certificate of Incorporation, or these Bylaws.

(c) Any member of the Board of Directors, or of any committee thereof, may participate in a meeting by means of conference telephone or other communication equipment by means of which all persons participating in the meeting can hear each other, and participation in· a meeting by such means shall constitute presence in person at such meeting.

(d) The transactions of any meeting of the Board of Directors, or any committee thereof, however called or noticed, or wherever held, shall be as valid as though had at a meeting duly held after regular call and notice if a quorum be present and if, either before or after the meeting, each of the directors not present shall sign a written waiver of notice, or a consent to holding such meeting, or an approval of the minutes thereof. All such waivers, consents or approvals shall be filed with the corporate records or made a part of the minutes of the meeting.

Section 3.7 Action Without Meeting.

Unless otherwise restricted by the Certificate of Incorporation or these Bylaws, any action required or permitted to be taken at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting, if all members of the Board of Directors or of such committee, as the case may be, consent thereto in writing or by electronic transmission, and such writing or writings or electronic transmission or transmissions are filed with the minutes of proceedings of the Board of Directors or committee. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

Section 3.8 Fees and Compensation.

Directors and members of committees may receive such compensation, if any, for their services, and such reimbursement for expenses, as may be fixed or determined by resolution of the Board of Directors.

Section 3.9 Committees.

(a) **Executive Committee:** The Board of Directors may appoint an Executive Committee of not less than one member, each of whom shall be a director. The Executive Committee, to the extent permitted by law, shall have and may exercise when the Board of Directors is not in session all powers of the Board in the management of the business and affairs of the corporation, except such committee shall not have the power or authority to amend these Bylaws or to approve or recommend to the stockholders any action which must be submitted to stockholders for approval under the General Corporation Law.

(b) **Other Committees:** The Board of Directors may, by resolution passed by a majority of the whole Board of Directors, from time to time appoint such other committees as may be permitted by law. Such other committees appointed by the Board of Directors shall have such powers and perform such duties as may be prescribed by the resolution or resolutions creating such committee, but in no event shall any such committee have the powers denied to the Executive Committee in these Bylaws.

(c) **Term:** The terms of members of all committees of the Board of Directors shall expire on the date of the next annual meeting of the Board of Directors following their appointment; provided that they shall continue in office until their successors are appointed. Subject to the provisions of subsections or of this Section 3.9, the Board of Directors may at any time increase or decrease the number of members of a committee or terminate the existence of a committee; provided that no committee shall consist of less than one member. The membership of a committee member shall terminate on the date of his death or voluntary resignation, but the Board of Directors may at any time for any reason remove any individual committee member and the Board of Directors may fill any committee vacancy created by death, resignation, removal or increase in the number of members of the committee. The Board of Directors may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee, and, in addition, in the absence or disqualification of any member of a committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not he or they constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in the place of any such absent or disqualified member.

(d) **Meetings:** Unless the Board of Directors shall otherwise provide, regular meetings of the Executive Committee or any other committee appointed pursuant to this Section 3.9 shall be held at such times and places as are determined by the Board of Directors, or by any such committee, and when notice thereof has been given to each member of such committee, no further notice of such regular meetings need be given thereafter; special meetings of any such committee may be held at the principal executive office of the Corporation or at any place which has been designated from time to time by resolution of such committee or by written consent of all members thereof, and may be called by any director who is a member of such committee upon written notice to the members of such committee of the time and place of such special meeting given in the manner provided for the giving of written notice to members of the Board of Directors of the time and place of special meetings of the Board of Directors. Notice of any special meeting of any committee may be waived in writing at any time after the meeting and will be waived by any director by attendance thereat. A majority of the authorized number of members of any such committee shall constitute a quorum for the transaction of business, and the act of a majority of those present at any meeting at which a quorum is present shall be the act of such committee.

ARTICLE 4

OFFICERS

Section 4.1 Officers Designated.

The officers of the Corporation shall be a President, a Secretary and a Treasurer. The Board of Directors or the President may also appoint a Chairman of the Board, one or more Executive Directors, Vice-Presidents, Assistant Secretaries, Assistant Treasurers, and such other officers and agents with such powers and duties as it or he shall deem necessary. The order of the seniority of the Vice- Presidents shall be in the order of their nomination unless otherwise determined by the Board of Directors. The Board of Directors may assign such additional titles to one or more of the officers as they shall deem appropriate. Any one person may hold any number of offices of the Corporation at any one time unless specifically prohibited therefrom by law. The salaries and other compensation of the officers of the Corporation shall be fixed by or in the manner designated by the Board of Directors.

Section 4.2 Tenure and Duties of Officers.

(a) **General:** All officers shall hold office at the pleasure of the Board of Directors and until their successors shall have been duly elected and qualified, unless sooner removed. Any officer elected or appointed by the Board of Directors may be removed at any time by the Board of Directors. If the office of any officer becomes vacant for any reason, the vacancy may be filled by the Board of Directors. Nothing in these Bylaws shall be construed as creating any kind of contractual right to employment with the Corporation.

(b) **Duties of the Chairman of the Board of Directors:** The Chairman of the Board of Directors (if there be such an officer appointed) when present shall preside at all meetings of the stockholders and the Board of Directors. The Chairman of the Board of Directors shall perform such other duties and have such other powers as the Board of Directors shall designate from time to time.

(c) **Duties of President:** The President shall be the chief executive officer of the Corporation and shall preside at all meetings of the stockholders and at all meetings of the Board of Directors, unless the Chairman of the Board of Directors has been appointed and is present. The President shall perform such other duties and have such other powers as the Board of Directors shall designate from time to time.

(d) **Duties of Vice-Presidents:** The Vice-Presidents, in the order of their seniority, may assume and perform the duties of the President in the absence or disability of the President or whenever the office of the President is vacant. The Vice-President shall perform such other duties and have such other powers as the Board of Directors or the President shall designate from time to time.

(e) **Duties of Secretary:** The Secretary shall attend all meetings of the stockholders and of the Board of Directors and any committee thereof, and shall record all acts and proceedings thereof in the minute book of the Corporation, which may be maintained in either paper or electronic form. The Secretary shall give notice, in conformity with these Bylaws, of all meetings of the stockholders and of all meetings of the Board of Directors and any Committee thereof requiring notice. The Secretary shall perform such other duties and have such other powers as the Board of Directors shall designate from time to time. The President may direct any Assistant Secretary to assume and perform the duties of the Secretary in the absence or disability of the Secretary, and each Assistant Secretary shall perform such other duties and have such other powers as the Board of Directors or the President shall designate from time to time.

(f) **Duties of Treasurer:** The Treasurer shall keep or cause to be kept the books of account of the Corporation in a thorough and proper manner, and shall render statements of the financial affairs of the Corporation in such form and as often as required by the Board of Directors or the President. The Treasurer, subject to the order of the Board of Directors shall have the custody of all funds and securities of the Corporation. The Treasurer shall perform all other duties commonly incident to his office and shall perform such other duties and have such other powers as the Board of Directors or the President shall designate from time to time. The President may direct any Assistant Treasurer to assume and perform the duties of the Treasurer in the absence or disability of the Treasurer, and each Assistant Treasurer shall perform such other duties and have such other powers as the Board of Directors or the President shall designate from time to time.

ARTICLE 5

EXECUTION OF CORPORATE INSTRUMENTS, AND VOTING OF SECURITIES OWNED BY THE CORPORATION

Section 5.1 Execution of Corporate Instruments.

(a) The Board of Directors may in its discretion determine the method and designate the signatory officer or officers, or other person or persons, to execute any corporate instrument or document, or to sign the corporate name without limitation, except where otherwise provided by law, and such execution or signature shall be binding upon the Corporation.

(b) Unless otherwise specifically determined by the Board of Directors or otherwise required by law, formal contracts of the Corporation, promissory notes, deeds of trust, mortgages and other evidences of indebtedness of the Corporation, and other corporate instruments or documents requiring the corporate seal, and certificates of shares of stock owned by the Corporation, shall be executed, signed or endorsed by the Chairman of the Board (if there be such an officer appointed) or by the President; such documents may also be executed by any Vice-President and by the Secretary or Treasurer or any Assistant Secretary or Assistant Treasurer. All other instruments and documents requiring the corporate signature but not requiring the corporate seal may be executed as aforesaid or in such other manner as may be directed by the Board of Directors.

(c) All checks and drafts drawn on banks or other depositaries on funds to the credit of the Corporation or in special accounts of the Corporation shall be signed by such person or persons as the Board of Directors shall authorize so to do.

(d) Execution of any corporate instrument may be effected in such form, either manual, facsimile or electronic signature, as may be authorized by the Board of Directors.

Section 5.2 Voting of Securities Owned by Corporation.

All stock and other securities of other Corporations owned or held by the Corporation for itself or for other parties in any capacity shall be voted, and all proxies with respect thereto shall be executed, by the person authorized so to do by resolution of the Board of Directors or, in the absence of such authorization, by the Chairman of the Board (if there be such an officer appointed), or by the President, or by any Vice-President.

ARTICLE 6

SHARES OF STOCK

Section 6.1 Form and Execution of Certificates.

The shares of the Corporation's all be represented by certificates, provided that the Board of Directors may provide by resolution or resolutions that some or all of any or all classes or series of its stock shall be uncertificated shares. Any such resolution shall not apply to shares represented by a certificate until such certificate is surrendered to the Corporation. Certificates for the shares of stock of the Corporation shall be in such form as is consistent with the Certificate of Incorporation and applicable law. Every holder of stock in the Corporation shall be entitled to have a certificate signed by, or in the name of the Corporation by, the Chairman of the Board (if there be such an officer appointed), or by the President or any Vice-President and by the Treasurer or Assistant Treasurer or the Secretary or Assistant Secretary, certifying the number of shares owned by him in the Corporation. Any or all of the signatures on the certificate may be a facsimile. In case any officer, transfer agent, or registrar who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer, transfer agent, or registrar before such certificate is issued, it may be issued with the same effect as if there were such officer, transfer agent, or registrar at the date of issue. If the Corporation shall be authorized to issue more than one class of stock or more than one series of any class, the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights shall be set forth in full or summarized on the face or back of the certificate which the Corporation shall issue to represent such class or series of stock, provided that, except as otherwise provided in Section 202 of the Delaware General Corporation Law, in lieu of the foregoing requirements, there may be set forth on the face or back of the certificate which the Corporation shall issue to represent such class or series of stock, a statement that the Corporation will furnish without charge to each stockholder who so requests the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights.

Section 6.2 Lost Certificates.

The Board of Directors may direct a new certificate or certificates (or uncertificated shares in lieu of a new certificate) to be issued in place of any certificate or certificates theretofore issued by the Corporation alleged to have been lost or destroyed, upon the making of an affidavit of that fact by the person claiming the certificate of stock to be lost or destroyed. When authorizing such issue of a new certificate or certificates (or uncertificated shares in lieu of a new certificate), the Board of Directors may, in its discretion and as a condition precedent to the issuance thereof, require the owner of such lost or destroyed certificate or certificates, or his legal representative, to indemnify the Corporation in such manner as it shall require and/or to give the Corporation a surety bond in such form and amount as it may direct as indemnity against any claim that may be made against the Corporation with respect to the certificate alleged to have been lost or destroyed.

Section 6.3 Transfers.

Transfers of record of shares of stock of the Corporation shall be made only upon its books by the holders thereof, in person or by attorney duly authorized, who shall furnish proper evidence of authority to transfer, and in the case of stock represented by a certificate, upon the surrender of a certificate or certificates for a like number of shares, properly endorsed.

Section 6.4 Fixing Record Dates.

(a) In order that the Corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which record date shall not be more than 60 nor less than 10 days before the date of such meeting. If no record date is fixed by the Board of Directors, the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given, or, if notice is waived, at the close of business on the day next preceding the date on which the meeting is held. A determination of stockholders of record entitled notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for the adjourned meeting.

(b) In order that the Corporation may determine the stockholders entitled to consent to corporate action in writing or by electronic transmission without a meeting, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which date shall not be more than 10 days after the date upon which the resolution fixing the record date is adopted by the Board of Directors. If no record date has been fixed by the Board of Directors, the record date for determining stockholders entitled to consent to corporate action in writing or by electronic transmission without a meeting, when no prior action by the Board of Directors is required by the Delaware General Corporation Law, shall be the first date on which a signed written consent or electronic transmission setting forth the action taken or proposed to be taken is delivered to the Corporation by delivery to its registered office in Delaware, its principal place of business, or an officer or agent of the Corporation having custody of the book in which proceedings of meetings of stockholders are recorded; provided that any such electronic transmission shall satisfy the requirements of Section 2.11 and, unless the Board of Directors otherwise provides by resolution, no such consent by electronic transmission shall be deemed to have been delivered until such consent is reproduced in paper form and until such paper form shall be delivered to the Corporation by delivery to its registered office in Delaware, its principal place of business or an officer or agent of the Corporation having custody of the book in which proceedings of meetings of stockholders are recorded. Delivery made to a Corporation's registered office shall be by hand or by certified or registered mail, return receipt requested. If no record date has been fixed by the Board of Directors and prior action by the Board of Directors is required by law, the record date for determining stockholders entitled to consent to corporate action in writing or by electronic transmission without a meeting shall be at the close of business on the day on which the Board of Directors adopts the resolution taking such prior action.

(c) In order that the Corporation may determine the stockholders entitled to receive payment of any dividend or other distribution or allotment of any rights or the stockholders entitled to exercise any rights in respect of any change, conversion or exchange of stock, or for the purpose of any other lawful action, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted, and which record date shall be not more than 60 days prior to such action. If no record date is fixed, the record date for determining stockholders for any such purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto.

Section 6.5 Registered Stockholders.

The Corporation shall be entitled to recognize the exclusive right of a person registered on its books as the owner of shares to receive dividends and to vote as such owner, and shall not be bound to recognize any equitable or other claim to or interest in such share or shares on the part of any other person, whether or not it shall have express or other notice thereof, except as otherwise provided by the laws of Delaware.

ARTICLE 7

OTHER SECURITIES OF THE CORPORATION

All bonds, debentures and other corporate securities of the Corporation, other than stock certificates, may be signed by the Chairman of the Board (if there be such an officer appointed), or the President or any Vice-President or such other person as may be authorized by the Board of Directors and the corporate seal impressed thereon or a facsimile of such seal imprinted thereon and attested by the signature of the Secretary or an Assistant Secretary, or the Treasurer or an Assistant Treasurer; provided, however, that where any such bond, debenture or other corporate security shall be authenticated by the manual signature of a trustee under an indenture pursuant to which such bond, debenture or other corporate security shall be issued, the signature of the persons signing and attesting the corporate seal on such bond, debenture or other corporate security may be the imprinted facsimile of the signatures of such persons. Interest coupons appertaining to any such bond, debenture or other corporate security, authenticated by a trustee as aforesaid, shall be signed by the Treasurer or an Assistant Treasurer of the Corporation, or such other person as may be authorized by the Board of Directors, or bear imprinted thereon the facsimile signature of such person. In case any officer who shall have signed or attested any bond, debenture or other corporate security, or whose facsimile signature shall appear thereon has ceased to be an officer of the Corporation before the bond, debenture or other corporate security so signed or attested shall have been delivered, such bond, debenture or other corporate security nevertheless may be adopted by the Corporation and issued and delivered as though the person who signed the same or whose facsimile signature shall have been used thereon had not ceased to be such officer of the Corporation.

ARTICLE 8

INDEMNIFICATION OF OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS

Section 8.1 Right to Indemnification.

Each person who was or is a party or is threatened to be made a party to or is involved (as a party, witness, or otherwise), in any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative (hereinafter a "Proceeding"), by reason of the fact that he, or a person of whom he is the legal representative, is or was a director, officer, employee, or agent of the Corporation or is or was serving at the request of the Corporation as a director, officer, employee, or agent of another Corporation or of a partnership, joint venture, trust, or other enterprise, including service with respect to employee benefit plans, whether the basis of the Proceeding is alleged action in an official capacity as a director, officer, employee, or agent or in any other capacity while serving as a director, officer, employee, or agent (hereafter an "Agent"), shall be indemnified and held harmless by the Corporation to the fullest extent authorized by the Delaware General Corporation Law, as the same exists or may hereafter be amended or interpreted (but, in the case of any such amendment or interpretation, only to the extent that such amendment or interpretation permits the Corporation to provide broader indemnification rights than were permitted prior thereto) against all expenses, liability, and loss (including attorneys' fees, judgments, fines, BRISA excise taxes or penalties, and amounts paid or to be paid in settlement, and any interest, assessments, or other charges imposed thereon, and any federal, state, local, or foreign taxes imposed on any Agent as a result of the actual or deemed receipt of any payments under this Article) reasonably incurred or suffered by such person in connection with investigating, defending, being a witness in, or participating in (including on appeal), or preparing for any of the foregoing in, any Proceeding (hereinafter "Expenses"); *provided, however,* that except as to actions to enforce indemnification rights pursuant to Section 9.3 of this Article, the Corporation shall indemnify any Agent seeking indemnification in connection with a Proceeding (or part thereof) initiated by such person only if the Proceeding (or part thereof) was authorized by the Board of Directors of the Corporation. The right to indemnification conferred in this Article shall be a contract right.

Section 8.2 Authority to Advance Expenses.

Expenses incurred by an officer or director (acting in his capacity as such) in defending a Proceeding shall be paid by the Corporation in advance of the final disposition of such Proceeding, provided, however, that if required by the Delaware General Corporation Law, as amended, such Expenses shall be advanced only upon delivery to the Corporation of an undertaking by or on behalf of such director or officer to repay such amount if it shall ultimately be determined that he is not entitled to be indemnified by the Corporation as authorized in this Article or otherwise. Expenses incurred by other Agents of the Corporation (or by the directors or officers not acting in their capacity as such, including service with respect to employee benefit plans) may be advanced upon such terms and conditions as the Board of Directors deems appropriate. Any obligation to reimburse the Corporation for Expense advances shall be unsecured and no interest shall be charged thereon.

Section 8.3 Right of Claimant to Bring Suit.

If a claim under Section 8.1 or 8.2 of this Article is not paid in full by the Corporation within 120 days after a written claim has been received by the Corporation, the claimant may at any time thereafter bring suit against the Corporation to recover the unpaid amount of the claim and, if successful in whole or in part, the claimant shall be entitled to be paid also the expense (including attorneys' fees) of prosecuting such claim. It shall be a defense to any such action (other than an action brought to enforce a claim for expenses incurred in defending a Proceeding in advance of its final disposition where the required undertaking has been tendered to the Corporation) that the claimant has not met the standards of conduct that make it permissible under the Delaware General Corporation Law for the Corporation to indemnify the claimant for the amount claimed. The burden of proving such a defense shall be on the Corporation. Neither the failure of the Corporation (including its Board of Directors, independent legal counsel, or its stockholders) to have made a determination prior to the commencement of such action that indemnification of the claimant is proper under the circumstances because he has met the applicable standard of conduct set forth in the Delaware General Corporation Law, nor an actual determination by the Corporation (including its Board of Directors, independent legal counsel, or its stockholders) that the claimant had not met such applicable standard of conduct, shall be a defense to the action or create a presumption that claimant has not met the applicable standard of conduct.

Section 8.4 Provisions Nonexclusive.

The rights conferred on any person by this Article shall not be exclusive of any other rights that such person may have or hereafter acquire under any statute, provision of the Certificate of Incorporation, agreement, vote of stockholders or disinterested directors, or otherwise, both as to action in an official capacity and as to action in another capacity while holding such office. To the extent that any provision of the Certificate of Incorporation, agreement, or vote of the stockholders or disinterested directors is inconsistent with these Bylaws, the provision, agreement, or vote shall take precedence.

Section 8.5 Authority to Insure.

The Corporation may purchase and maintain insurance to protect itself and any Agent against any Expense, whether or not the Corporation would have the power to indemnify the Agent against such Expense under applicable law or the provisions of this Article.

Section 8.6 Survival of Rights.

The rights provided by this Article shall continue as to a person who has ceased to be an Agent and shall inure to the benefit of the heirs, executors, and administrators of such a person.

Section 8.7 Settlement of Claims.

The Corporation shall not be liable to indemnify any Agent under this Article for any amounts paid in settlement of any action or claim effected without the Corporation's written consent, which consent shall not be unreasonably withheld; or for any judicial award if the Corporation was not given a reasonable and timely opportunity, at its expense, to participate in the defense of such action.

Section 8.8 Effect of Amendment.

Any amendment, repeal, or modification of this Article shall not adversely affect any right or protection of any Agent existing at the time of such amendment, repeal, or modification.

Section 8.9 Subrogation.

In the event of payment under this Article, the Corporation shall be subrogated to the extent of such payment to all of the rights of recovery of the Agent, who shall execute all papers required and shall do everything that may be necessary to secure such rights, including the execution of such documents necessary to enable the corporation effectively to bring suit to enforce such rights.

Section 8.10 No Duplication of Payments.

The Corporation shall not be liable under this Article to make any payment in connection with any claim made against the Agent to the extent the Agent has otherwise actually received payment (under any insurance policy, agreement, vote, or otherwise) of the amounts otherwise indemnifiable hereunder.

Section 8.11 Saving Clause.

If this Article or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then the Corporation shall nevertheless indemnify each Agent to the fullest extent not prohibited by any applicable portion of this Article that shall not have been invalidated, or by any other applicable law.

ARTICLE 9

NOTICES

Whenever, under any provisions of these Bylaws, notice is required to be given to any stockholder, the same shall be given either (1) in writing, timely and duly deposited in the United States Mail, postage prepaid, and addressed to his last known post office address as shown by the stock record of the Corporation or its transfer agent, or (2) by a means of electronic transmission that satisfies the requirements of Section 2.4 of these Bylaws, and has been consented to by the stockholder to whom the notice is given. Any notice required to be given to any director may be given by either of the methods hereinabove stated, except that such notice other than one which is delivered personally, shall be sent to such address or (in the case of electronic communication) such e-mail address, facsimile telephone number or other form of electronic address as such director shall have filed in writing or by electronic communication with the Secretary of the Corporation, or, in the absence of such filing, to the last known post office address of such director. If no address of a stockholder or director be known, such notice may be sent to the principal executive office of the Corporation. An affidavit of mailing, executed by a duly authorized and competent employee of the Corporation or its transfer agent appointed with respect to the class of stock affected, specifying the name and address or the names and addresses of the stockholder or stockholders, director or directors, to whom any such notice or notices was or were given, and the time and method of giving the same, shall be conclusive evidence of the statements therein contained. All notices given by mail, as above provided, shall be deemed to have been given as at the time of mailing and all notices given by means of electronic transmission shall be deemed to have been given as at the sending time recorded by the electronic transmission equipment operator transmitting the same. It shall not be necessary that the same method of giving notice be employed in respect of all directors, but one permissible method may be employed in respect of any one or more, and any other permissible method or methods may be employed in respect of any other or others. The period or limitation of time within which any stockholder may exercise any option or right, or enjoy any privilege or benefit, or be required to act, or within which any director may exercise any power or right, or enjoy any privilege, pursuant to any notice sent him in the manner above provided, shall not be affected or extended in any manner by the failure of such a stockholder or such director to receive such notice. Whenever any notice is required to be given under the provisions of the statutes or of the Certificate of Incorporation, or of these Bylaws, a waiver thereof in writing signed by the person or persons entitled to said notice, or a waiver by electronic transmission by the person entitled to notice, whether before or after the time stated therein, shall be deemed equivalent thereto. Whenever notice is required to be given, under any provision of law or of the Certificate of Incorporation or Bylaws of the Corporation, to any person with whom communication is unlawful, the giving of such notice to such person shall not be required and there shall be no duty to apply to any governmental authority or agency for a license or permit to give such notice to such person. Any action or meeting which shall be taken or held without notice to any such person with whom communication is unlawful shall have the same force and effect as if such notice had been duly given. In the event that the action taken by the Corporation is such as to require the filing of a certificate under any provision of _the Delaware General Corporation Law, the certificate shall state, if such is the fact and if notice is required, that notice was given to all persons entitled to receive notice except such persons with whom communication is unlawful.

ARTICLE 10

AMENDMENTS

Except as otherwise provided in Section 8.8 above, these Bylaws may be repealed, altered or amended or new Bylaws adopted by written consent of stockholders in the manner authorized by Section 2.11 of Article II, or at any meeting of the stockholders, either annual or special, by the affirmative vote of a majority of the stock entitled to vote at such meeting, unless a larger vote is required by these Bylaws or the Certificate of Incorporation. Except as otherwise provided in Section 8.8 above, the Board of Directors shall also have the authority to repeal, alter or amend these Bylaws or adopt new Bylaws (including, without limitation, the amendment of any Bylaws setting forth the number of directors who shall constitute the whole Board of Directors) by unanimous written consent or at any annual, regular, or special meeting by the affirmative vote of a majority of the whole number of directors, subject to the power of the stockholders to change or repeal such Bylaws and provided that the Board of Directors shall not make or alter any Bylaws fixing the qualifications, classifications, or term of office of directors.

CERTIFICATION

The undersigned, Chairman of the Board of Directors of Eton Pharmaceuticals, Inc., a Delaware corporation, hereby certifies that the foregoing is a full, true and correct copy of the Bylaws of said corporation, with all amendments to date of this Certificate.

WITNESS the signature of the undersigned on April 26, 2017.

/s/ Mark L. Baum
By: Mark L. Baum
Its: Chairman of the Board

Exhibit 4.2

NEITHER THESE SECURITIES NOR THE SECURITIES ISSUABLE UPON EXERCISE OF THESE SECURITIES HAVE BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION OR THE SECURITIES COMMISSION OF ANY STATE IN RELIANCE UPON AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "***SECURITIES ACT***") AND APPLICABLE STATE SECURITIES LAWS AND, ACCORDINGLY, MAY NOT BE OFFERED OR SOLD EXCEPT PURSUANT TO (I) AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR (II) AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS OR BLUE SKY LAWS. THESE SECURITIES AND THE SECURITIES ISSUABLE UPON EXERCISE OF THESE SECURITIES MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN SECURED BY SUCH SECURITIES.

ETON PHARMACEUTICALS, INC.

WARRANT TO PURCHASE COMMON STOCK

Warrant No. E-100 Original Issue Date: May 4, 2017

Eton Pharmaceuticals, Inc., a Delaware corporation (the "***Company***"), hereby certifies that, for value received, Liquid Patent Advisors, LLC or his permitted registered assigns (the "***Holder***"), is entitled to purchase from the Company up to a total of 600,000 shares of common stock, $0.001 par value (the "***Common Stock***"), of the Company (each such share, a "***Warrant Share***" and all such shares, the "***Warrant Shares***") at an exercise price per share equal to $0.01 (as adjusted from time to time as provided in Section 9 herein, the "***Exercise Price***"), at any time and from time to time from on or after the date hereof (the "***Trigger Date***") and through and including 5:00 P.M., prevailing Pacific time, on May 4, 2022 (the "***Expiration Date***"), and subject to the following terms and conditions:

This Warrant (this "***Warrant***") is issued pursuant to that certain Engagement Agreement for Strategic Consulting Services dated May 4, 2017 between the Company and Holder (the "***Consulting Agreement***").

1. Definitions. In addition to the terms defined elsewhere in this Warrant, capitalized terms that are not otherwise defined herein have the meanings given to such terms in the Consulting Agreement.

2. Registration of Warrants. 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 (which shall include the initial Holder or, as the case may be, any registered assignee to which this Warrant is permissibly assigned hereunder) 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.

3. Registration of Transfers. The Company shall register the transfer of all or any portion of this Warrant in the Warrant Register, upon (i) surrender of this Warrant, with the Form of Assignment attached as Schedule 2 hereto duly completed and signed, to the Company's transfer agent or to the Company at its address specified herein (ii) delivery, at the request of the Company, of an opinion of counsel reasonably satisfactory to the Company to the effect that the transfer of such portion of this Warrant may be made pursuant to an available exemption from the registration requirements of the Securities Act of 1933 ("***Securities Act***") and all applicable state securities or blue sky laws and (iii) delivery by the transferee of a written statement to the Company certifying that the transferee is an "accredited investor" as defined in Rule 501(a) under the Securities Act and making the representations and certifications as the Company may reasonably request to procure an exemption from Section 5 of the Securities Act. Upon any such registration or transfer, a new warrant to purchase Common Stock in substantially the form of this Warrant (any such new warrant, a "***New Warrant***") evidencing the portion of this Warrant so transferred shall be issued to the transferee, and a New Warrant evidencing the remaining portion of this Warrant not so transferred, if any, shall be issued to the transferring Holder. The acceptance of the New Warrant by the transferee thereof shall be deemed the acceptance by such transferee of all of the rights and obligations of a Holder of a Warrant.

4. Exercise and Duration of Warrants.

(a) All or any part of this Warrant shall be exercisable by the registered Holder at any time and from time to time on or after the Trigger Date and through and including 5:00 P.M. prevailing Pacific time on the Expiration Date. At 5:00 P.M., prevailing Pacific time, on the Expiration Date, the portion of this Warrant not exercised prior thereto shall be and become void and of no value and this Warrant shall be terminated and no longer outstanding.

(b) The Holder may exercise this Warrant by delivering to the Company (i) an exercise notice, in the form attached as Schedule 1 hereto (the "***Exercise Notice***"), appropriately completed and duly signed, (ii) payment of the Exercise Price for the number of Warrant Shares as to which this Warrant is being exercised (which may take the form of a "cashless exercise" if so indicated in the Exercise Notice and if a "cashless exercise" may occur at such time pursuant to Section 10 below), and the date such items are delivered to the Company (as determined in accordance with the notice provisions hereof) is an "***Exercise Date***." The Holder shall not be required to deliver the original Warrant in order to effect an exercise hereunder. Execution and delivery of the Exercise Notice shall have the same effect as cancellation of the original Warrant and issuance of a New Warrant evidencing the right to purchase the remaining number of Warrant Shares.

5. Delivery of Warrant Shares. Upon exercise of this Warrant, the Company shall promptly issue or cause to be issued and cause to be delivered to or upon the written order of the Holder and in such name or names as the Holder may designate a certificate for the Warrant Shares issuable upon such exercise, with an appropriate restrictive legends. The Holder, or any Person permissibly so designated by the Holder to receive Warrant Shares, shall be deemed to have become the holder of record of such Warrant Shares as of the Exercise Date.

6. Charges, Taxes and Expenses. Issuance and delivery of certificates for shares of Common Stock upon exercise of this Warrant shall be made without charge to the Holder for any issue or transfer tax, transfer agent fee or other incidental tax or expense in respect of the issuance of such certificates, all of which taxes and expenses shall be paid by the Company; *provided*, *however*, that the Company shall not be required to pay any tax which may be payable in respect of any transfer involved in the registration of any certificates for Warrant Shares or Warrants in a name other than that of the Holder or an Affiliate thereof. The Holder shall be responsible for all other tax liability that may arise as a result of holding or transferring this Warrant or receiving Warrant Shares upon exercise hereof.

7. Replacement of Warrant. If this Warrant is mutilated, lost, stolen or destroyed, the Company shall issue or cause to be issued in exchange and substitution for and upon cancellation hereof, or in lieu of and substitution for this Warrant, a New Warrant, but only upon receipt of evidence reasonably satisfactory to the Company of such loss, theft or destruction (in such case) and, in each case, a customary and reasonable indemnity (which shall not include a surety bond), if requested. Applicants for a New Warrant under such circumstances shall also comply with such other reasonable regulations and procedures and pay such other reasonable third-party costs as the Company may prescribe. If a New Warrant is requested as a result of a mutilation of this Warrant, then the Holder shall deliver such mutilated Warrant to the Company as a condition precedent to the Company's obligation to issue the New Warrant.

8. Reservation of Warrant Shares. The Company covenants that it will at all times reserve and keep available out of the aggregate of its authorized but unissued and otherwise unreserved Common Stock, solely for the purpose of enabling it to issue Warrant Shares upon exercise of this Warrant as herein provided, the number of Warrant Shares which are then issuable and deliverable upon the exercise of this entire Warrant, free from preemptive rights or any other contingent purchase rights of persons other than the Holder (taking into account the adjustments and restrictions of Section 9). The Company covenants that all Warrant Shares so issuable and deliverable shall, upon issuance and the payment of the applicable Exercise Price in accordance with the terms hereof, be duly and validly authorized, issued and fully paid and nonassessable. The Company will take all such action as may be necessary to assure that such shares of Common Stock may be issued as provided herein without violation of any applicable law or regulation, or of any requirements of any securities exchange or automated quotation system upon which the Common Shares may be listed.

9. Certain Adjustments. The Exercise Price and number of Warrant Shares issuable upon exercise of this Warrant are subject to adjustment from time to time as set forth in this Section 9.

(a) Stock Dividends and Splits; Holder Electoral Adjustment. If the Company, at any time while this Warrant is outstanding, (i) pays a stock dividend on its Common Stock or otherwise makes a distribution on any class of capital stock that is payable in shares of Common Stock, (ii) subdivides its outstanding shares of Common Stock into a larger number of shares, or (iii) combines its outstanding shares of Common Stock into a smaller number of shares, then in each such case the Exercise Price shall be multiplied by a fraction, the numerator of which shall be the number of shares of Common Stock outstanding immediately before such event and the denominator of which shall be the number of shares of Common Stock outstanding immediately after such event. Any adjustment made pursuant to clause (i) of this paragraph shall become effective immediately after the record date for the determination of stockholders entitled to receive such dividend or distribution, and any adjustment pursuant to clause (ii) or (iii) of this paragraph shall become effective immediately after the effective date of such subdivision or combination. The Exercise Price of this Warrant may be adjusted upward at the sole discretion of the Holder for a period of twelve (12) months following the Original Issue Date of the Warrant.

(b) Fundamental Transactions. If, at any time while this Warrant is outstanding (i) the Company effects any merger or consolidation of the Company with or into another Person, in which the Company is not the survivor, (ii) the Company effects any sale of all or substantially all of its assets or a majority of its Common Stock is acquired by a third party, in each case, in one or a series of related transactions, (iii) any tender offer or exchange offer (whether by the Company or another Person) is completed pursuant to which all or substantially all of the holders of Common Stock are permitted to tender or exchange their shares for other securities, cash or property, or (iv) the Company effects any reclassification 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 (other than as a result of a subdivision or combination of shares of Common Stock covered by Section 9(a) above) (in any such case, a "***Fundamental Transaction***"), then the Holder shall have the right thereafter to receive, upon exercise of this Warrant, the same amount and kind of securities, cash or property as it would have been entitled to receive upon the occurrence of such Fundamental Transaction if it had been, immediately prior to such Fundamental Transaction, the holder of the number of Warrant Shares then issuable upon exercise in full of this Warrant without regard to any limitations on exercise contained herein (the "***Alternate Consideration***"). The Company shall not effect any such Fundamental Transaction unless prior to or simultaneously with the consummation thereof, any successor to the Company, surviving entity or the corporation purchasing or otherwise acquiring such assets or other appropriate corporation or entity shall assume the obligation to deliver to the Holder, such Alternate Consideration as, in accordance with the foregoing provisions, the Holder may be entitled to purchase and/or receive (as the case may be), and the other obligations under this Warrant. The provisions of this paragraph (b) shall similarly apply to subsequent transactions analogous to a Fundamental Transaction.

(c) Number of Warrant Shares. Simultaneously with any adjustment to the Exercise Price pursuant to paragraph (a) of this Section, the number of Warrant Shares that may be purchased upon exercise of this Warrant shall be increased or decreased proportionately, so that after such adjustment the aggregate Exercise Price payable hereunder for the increased or decreased number of Warrant Shares shall be the same as the aggregate Exercise Price in effect immediately prior to such adjustment.

(d) Calculations. All calculations under this Section 9 shall be made to the nearest cent or the nearest $1/100^{th}$ of a share, as applicable. The number of shares of Common Stock outstanding at any given time shall not include shares owned or held by or for the account of the Company, and the sale or issuance of any such shares shall be considered an issue or sale of Common Stock.

(e) Notice of Adjustments. Upon the occurrence of each adjustment pursuant to this Section 9, the Company at its expense will, at the written request of the Holder, promptly compute such adjustment, in good faith, in accordance with the terms of this Warrant and prepare a certificate setting forth such adjustment, including a statement of the adjusted Exercise Price and adjusted number or type of Warrant Shares or other securities issuable upon exercise of this Warrant (as applicable), describing the transactions giving rise to such adjustments and showing in detail the facts upon which such adjustment is based. Upon written request, the Company will promptly deliver a copy of each such certificate to the Holder and to the Company's transfer agent.

(f) Notice of Corporate Events. If, while this Warrant is outstanding, the Company (i) declares a dividend or any other distribution of cash, securities or other property in respect of its Common Stock, including, without limitation, any granting of rights or warrants to subscribe for or purchase any capital stock of the Company, (ii) authorizes or approves, enters into any agreement contemplating or solicits stockholder approval for any Fundamental Transaction or (iii) authorizes the voluntary dissolution, liquidation or winding up of the affairs of the Company, then, except if such notice and the contents thereof shall be deemed to constitute material non-public information, the Company shall deliver to the Holder a notice describing the material terms and conditions of such transaction at least ten (10) Trading Days prior to the applicable record or effective date on which a Person would need to hold Common Stock in order to participate in or vote with respect to such transaction, and the Company will take all steps reasonably necessary in order to insure that the Holder is given the practical opportunity to exercise this Warrant prior to such time so as to participate in or vote with respect to such transaction; *provided*, *however*, that the failure to deliver such notice or any defect therein shall not affect the validity of the corporate action required to be described in such notice.

10. Payment of Exercise Price. The Holder shall pay the Exercise Price in immediately available funds; *provided*, *however*, the Holder may, in its sole discretion, satisfy its obligation to pay the Exercise Price through a "cashless exercise", in which event the Company shall issue to the Holder the number of Warrant Shares determined as follows:

X = Y [(A-B)/A]

where:

X = the number of Warrant Shares to be issued to the Holder.

Y = the total number of Warrant Shares with respect to which this Warrant is being exercised.

A = the average of the Closing Sale Prices of the shares of Common Stock (as reported by Bloomberg Financial Markets) for the five Trading Days ending on the date immediately preceding the Exercise Date.

B = the Exercise Price then in effect for the applicable Warrant Shares at the time of such exercise.

For purposes of this Warrant, "***Closing Sale Price***" means, for any security as of any date, the last trade price for such security on the principal securities exchange or trading market for such security, as reported by Bloomberg Financial Markets, or, if such exchange or trading market begins to operate on an extended hours basis and does not designate the last trade price, then the last trade price of such security prior to 4:00:00 p.m., New York Time, as reported by Bloomberg Financial Markets, or if the foregoing do not apply, the last trade price of such security in the over-the-counter market on the electronic bulletin board for such security as reported by Bloomberg Financial Markets, or, if no last trade price is reported for such security by Bloomberg Financial Markets, the average of the bid prices, or the ask prices, respectively, of any market makers for such security as reported in the "pink sheets" by Pink Sheets LLC. If the Closing Sale Price cannot be calculated for a security on a particular date on any of the foregoing bases, the Closing Sale Price of such security on such date shall be the fair market value as mutually determined by the Company and the Holder. If the Company and the Holder are unable to agree upon the fair market value of such security, then the Company shall, within two business days submit via facsimile (a) the disputed determination of the Warrant Exercise Price to an independent, reputable investment bank selected by the Company and approved by the Holder or (b) the disputed arithmetic calculation of the Warrant Shares to the Company's independent, outside accountant. The Company shall cause at its expense the investment bank or the accountant, as the case may be, to perform the determinations or calculations and notify the Company and the Holder of the results no later than ten business days from the time it receives the disputed determinations or calculations. Such investment bank's or accountant's determination or calculation, as the case may be, shall be binding upon all parties absent demonstrable error. All such determinations to be appropriately adjusted for any stock dividend, stock split, stock combination or other similar transaction during the applicable calculation period.

For purposes of Rule 144 promulgated under the Securities Act, it is intended, understood and acknowledged that the Warrant Shares issued in a cashless exercise transaction shall be deemed to have been acquired by the Holder, and the holding period for the Warrant Shares shall be deemed to have commenced, on the date this Warrant was originally issued pursuant to the Consulting Agreement (provided that the Commission continues to take the position that such treatment is proper at the time of such exercise).

11. Limitation on Exercises. The Company shall not effect the exercise of this Warrant, and the Holder shall not have the right to exercise this Warrant, to the extent that after giving effect to such exercise, the Holder (together with such Holder's affiliates) would beneficially own in excess of 4.99% ("***Maximum Percentage***") of the shares of Common Stock outstanding immediately after giving effect to such exercise. For purposes of the foregoing sentence, the aggregate number of shares of Common Stock beneficially owned by such Holder and its affiliates shall include the number of shares of Common Stock issuable upon exercise of this Warrant with respect to which the determination of such sentence is being made, but shall exclude shares of Common Stock which would be issuable upon (A) exercise of the remaining, unexercised portion of this Warrant beneficially owned by such Holder and its affiliates and (B) exercise or conversion of the unexercised or unconverted portion of any other securities of the Company beneficially owned by such Person and its affiliates (including, without limitation, any convertible notes or convertible preferred stock or warrants) subject to a limitation on conversion or exercise analogous to the limitation contained herein. Except as set forth in the preceding sentence, for purposes of this paragraph, beneficial ownership shall be calculated in accordance with Section 13(d) of the Securities Exchange Act of 1934, as amended. To the extent that the limitation contained in this Section 11 applies, the determination of whether this Warrant is exercisable (in relation to other securities owned by the Holder together with any affiliate) 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 affiliate) and of which portion of this Warrant is exercisable, in each case subject to such aggregate percentage limitation, and the Company shall have no obligation to verify or confirm the accuracy of the determination. For purposes of this Warrant, in determining the number of outstanding shares of Common Stock, the Holder may rely on the number of outstanding shares of Common Stock as reflected in (1) the Company's most recent Form 10-K, Form 10-Q, Current Report on Form 8-K or other public filing with the Securities and Exchange Commission, as the case may be, (2) a more recent public announcement by the Company or (3) any other notice by the Company setting forth the number of shares of Common Stock outstanding. For any reason at any time, upon the written or oral request of the Holder, the Company shall within one (1) business 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 and its affiliates since the date as of which such number of outstanding shares of Common Stock was reported. By written notice to the Company, any Holder may decrease the Maximum Percentage to any other percentage specified in such notice; provided that such decrease will apply only to the Holder sending such notice and not to any other holder of Warrants. In addition, by written notice to the Company, any Holder may remove the limitations on exercises provided in this Section 11 entirely; provided that (i) any such removal will not be effective until the 61st day after such notice is delivered to the Company, and (ii) any such removal will apply only to the Holder sending such notice and not to any other holder of Warrants. The provisions of this paragraph shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this Section 11 to correct this paragraph (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.

12. No Fractional Shares. No fractional Warrant Shares will be issued in connection with any exercise of this Warrant. In lieu of any fractional shares which would otherwise be issuable, the number of Warrant Shares to be issued shall be rounded up to the next whole number.

13. Notices. Any and all notices or other communications or deliveries hereunder (including, without limitation, any Exercise Notice) shall be in writing and shall be deemed given and effective on the earliest of (i) the date of transmission, if such notice or communication is delivered via email at the email address specified in the Consulting Agreement prior to 5:00 p.m. (prevailing Pacific time) on a Trading Day, (ii) the next Trading Day after the date of transmission, if such notice or communication is delivered via email at the email address specified in the Consulting Agreement t on a day that is not a Trading Day or later than 5:00 p.m.. (prevailing Pacific time) on any Trading Day, (iii) the Trading Day following the date of mailing, if sent by nationally recognized overnight courier service specifying next business day delivery, or (iv) upon actual receipt by the party to whom such notice is required to be given, if by hand delivery. The address and facsimile number of a party for such notices or communications shall be as set forth in the Consulting Agreement unless changed by such party by two Trading Days' prior notice to the other party in accordance with this Section 13.

14. Warrant Agent. The Company shall serve as warrant agent under this Warrant. Upon thirty (30) days' notice to the Holder, the Company may appoint a new warrant agent. Any corporation into which the Company or any new warrant agent may be merged or any corporation resulting from any consolidation to which the Company or any new warrant agent shall be a party or any corporation to which the Company or any new warrant agent transfers substantially all of its corporate trust or shareholders services business shall be a successor warrant agent under this Warrant without any further act. Any such successor warrant agent shall promptly cause notice of its succession as warrant agent to be mailed (by first class mail, postage prepaid) to the Holder at the Holder's last address as shown on the Warrant Register.

15. Registration Rights. The Company agrees that the Holder and its assigns will have registration rights covering the resale of the Warrant Shares, including "piggyback" registration rights on the registrations of the Company or demand registrations (voting with the other registrable securities to effect any such demand), no less favorable than those granted to any other person by the Company prior or subsequent to the date of this Warrant. At such time, and from time to time, as the Company enters into an agreement subsequent to the date of this Warrant pursuant to which the Company grants any third party rights with respect to the Company's registration of Company securities under the Securities Act held by such party, the Company shall offer to enter into a formal written registration rights agreement with the Holder and its assigns on substantially the same terms and such other terms as are customary and usual for agreements of such nature. In addition to, and without restricting or limiting the scope of this subparagraph (a), the Company further agrees that

(a) Right to Piggyback. Whenever the Company proposes to register any of its securities under the Securities Act, the Company will give prompt written notice to the Holder of its intention to effect such registration and will include in such registration all Warrant Shares with respect to which the Company has received a written request from the Holder for inclusion therein within 15 days after the receipt of the Company's notice. The Company will pay, or cause to be paid, the registration expenses of the Holder in all piggyback registrations.

(b) Underwritten Offering. If a piggyback registration is an underwritten primary or secondary registration on behalf of the Company and/or other holders of the Common Stock, and the managing underwriters advise the Company in writing that in their opinion the number of shares requested to be included in such registration (including the Warrant Shares and any other shares of Common Stock held by holders with registration rights) exceeds the number which can be sold in such offering without materially and adversely affecting the marketability of the offering, the Company will promptly furnish the Holder with a copy of the underwriter's opinion and may, by written notice to the Holder, include in such registration (i) first, the securities the Company proposes to sell, (ii) second, the Common Stock requested to be included in such registration pro rata among all holders with registration rights on the basis of the number of shares owned by each such holder, and (iii) third, exclude all the Common Stock requested to be included in such registration statement of all holders with registration rights.

(c) Underwriting Agreement. In any registration in which the Warrant Shares is to be included, the Holder shall be a party to the underwriting agreement entered into by the Company in connection therewith, and the representations and warranties by, and the other agreements on the part of, the Company and for the benefit of the underwriters shall also be made to and for the benefit of the Holder.

(d) Documents, etc. The Company shall provide to the Holder any and all documents, statements, opinions and forms as the Holder reasonably deems necessary for the Holder to participate in any piggyback registrations and to facilitate the disposition of the Warrant Shares covered by such registration pursuant to the terms and conditions of this Agreement and the applicable securities laws.

(e) Indemnification. In the event of any piggyback registration of any Warrant Shares under the Securities Act, and in connection with any registration statement or any other disclosure document pursuant to which securities of the Company are sold, the Company will, and hereby does, jointly and severally, indemnify and hold harmless the Holder, its directors, officers, fiduciaries, and agents (each, a "***Covered Person***") against any losses, claims, damages or liabilities, joint or several, to which such Covered Person may be or become subject under the Securities Act, any other securities or other laws of any jurisdiction, common law or otherwise, insofar as such losses, claims, damages or liabilities (or actions or proceedings in respect thereof) arise out of or are based upon (1) any untrue statement or alleged untrue statement of any material fact contained or incorporated by reference in any registration statement under the Securities Act, any preliminary prospectus or final prospectus included therein, or any amendment or supplement thereto, or any document incorporated by reference therein, or any other such disclosure document, or (2) any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statement therein not misleading, and will reimburse such Covered Person for any legal or any other expenses incurred by in connection with investigating or defending any such loss, claim, damage, liability, action or proceeding; provided, however, the Company shall not be liable to any Covered Person in any such case to the extent that any such loss, claim, damage, liability, action or proceeding is determined, by a final, non-appealable judgment by a court or arbitral tribunal of competent jurisdiction, to have arisen out of or is based upon an untrue statement or alleged untrue statement or omission or alleged omission made in such registration statement, any such preliminary prospectus, final prospectus, amendment or supplement, any document incorporated by reference or other such disclosure document in reliance upon and in conformity with written information furnished to the Company through an instrument duly executed by such Covered Person specifically stating this it is for use in the preparation thereof.

(f) All fees and expenses incurred by the Company in connection with the performance of its obligation to register the Warrant Shares pursuant to Section 15 shall be borne by the Company; provided that any fees and expenses of the holder or holders thereof or of its or their counsel, and transfer taxes applicable to the sale of such Warrant Shares, shall be borne by such holder or holders.

16. Miscellaneous.

(a) The Holder, solely in such Person's capacity as a holder of this Warrant, shall not be entitled to vote or receive dividends or be deemed the holder of share capital of the Company for any purpose, nor shall anything contained in this Warrant be construed to confer upon the Holder, solely in such Person's capacity as the Holder of this Warrant, any of the rights of a stockholder of the Company or any right to vote, give or withhold consent to any corporate action (whether any reorganization, issue of stock, reclassification of stock, consolidation, merger, amalgamation, conveyance or otherwise), receive notice of meetings, receive dividends or subscription rights, or otherwise, prior to the issuance to the Holder of the Warrant Shares which such Person is then entitled to receive upon the due exercise of this Warrant. In addition, nothing contained in this Warrant shall be construed as imposing any liabilities on the Holder to purchase any securities (upon exercise of this Warrant or otherwise) or as a stockholder of the Company, whether such liabilities are asserted by the Company or by creditors of the Company. Notwithstanding this Section 16(a), the Company shall provide the Holder with copies of the same notices and other information given to the shareholders of the Company, contemporaneously with the giving thereof to the shareholders.

(b) Subject to the restrictions on transfer set forth on the first page hereof, and compliance with applicable securities laws, this Warrant may be assigned by the Holder. This Warrant may not be assigned by the Company except to a successor in the event of a Fundamental Transaction. This Warrant shall be binding on and inure to the benefit of the parties hereto and their respective successors and assigns. Subject to the preceding sentence, nothing in this Warrant shall be construed to give to any Person other than the Company and the Holder any legal or equitable right, remedy or cause of action under this Warrant. This Warrant may be amended only in writing signed by the Company and the Holder, or their successors and assigns.

(c) GOVERNING LAW; VENUE; WAIVER OF JURY TRIAL. ALL QUESTIONS CONCERNING THE CONSTRUCTION, VALIDITY, ENFORCEMENT AND INTERPRETATION OF THIS WARRANT SHALL BE GOVERNED BY AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA WITHOUT REGARD TO THE PRINCIPLES OF CONFLICTS OF LAW THEREOF. EACH PARTY HEREBY IRREVOCABLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF THE STATE AND FEDERAL COURTS SITTING IN THE CITY OF LOS ANGELES, CALIFORNIA, 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 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. EACH PARTY 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 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 MANNER PERMITTED BY LAW. THE COMPANY HEREBY WAIVES ALL RIGHTS TO A TRIAL BY JURY.

(d) The headings herein are for convenience only, do not constitute a part of this Warrant and shall not be deemed to limit or affect any of the provisions hereof.

(e) In case any one or more of the provisions of this Warrant shall be invalid or unenforceable in any respect, the validity and enforceability of the remaining terms and provisions of this Warrant shall not in any way be affected or impaired thereby, and the parties will attempt in good faith to agree upon a valid and enforceable provision which shall be a commercially reasonable substitute therefor, and upon so agreeing, shall incorporate such substitute provision in this Warrant.

(f) Except as otherwise set forth herein, prior to exercise of this Warrant, the Holder hereof shall not, by reason of by being a Holder, be entitled to any rights of a stockholder with respect to the Warrant Shares.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK,
SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Company has caused this Warrant to be duly executed by its authorized officer as of the date first indicated above.

Eton Pharmaceuticals, Inc.,
a Delaware corporation

By: */s/ Mark L. Baum*
Mark L. Baum, Executive Director

SCHEDULE 1
FORM OF EXERCISE NOTICE

(To be executed by the Holder to exercise the right to purchase shares of Common Stock under the foregoing Warrant)

Ladies and Gentlemen:

(1) The undersigned is the Holder of Warrant No. _____ (the "***Warrant***") issued by Eton Pharmaceuticals, Inc., a Delaware corporation (the "***Company***"). Capitalized terms used herein and not otherwise defined herein have the respective meanings set forth in the Warrant.

(2) The undersigned hereby exercises its right to purchase _____ Warrant Shares pursuant to the Warrant.

(3) The Holder intends that payment of the Exercise Price shall be made as (check one):

Cash Exercise

"Cashless Exercise" under Section 10

(4) If the Holder has elected a Cash Exercise, the Holder shall pay the sum of $_____ in immediately available funds to the Company in accordance with the terms of the Warrant.

(5) Pursuant to this Exercise Notice, the Company shall deliver to the Holder _____ Warrant Shares in accordance with the terms of the Warrant.

Dated: _____, _____
Name of Holder: _____
By: _____
Name: _____
Title: _____
(Signature must conform in all respects to name of Holder as specified on the face of the Warrant)

SCHEDULE 2
FORM OF ASSIGNMENT

[To be completed and signed only upon transfer of Warrant]

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto _____ (the "***Transferee***" the right represented by the within Warrant to purchase _____ shares of Common Stock of Eton Pharmaceuticals, Inc. (the "***Company***") to which the within Warrant relates and appoints _____ attorney to transfer said right on the books of the Company with full power of substitution in the premises. In connection therewith, the undersigned represents, warrants, covenants and agrees to and with the Company that:

(a) the offer and sale of the Warrant contemplated hereby is being made in compliance with Section 4(a)(1) of the United States Securities Act of 1933, as amended (the "***Securities Act***") or another valid exemption from the registration requirements of Section 5 of the Securities Act and in compliance with all applicable securities laws of the states of the United States;

(b) the undersigned has not offered to sell the Warrant by any form of general solicitation or general advertising, including, but not limited to, any advertisement, article, notice or other communication published in any newspaper, magazine or similar media or broadcast over television or radio, and any seminar or meeting whose attendees have been invited by any general solicitation or general advertising;

(c) the undersigned has read the Transferee's investment letter included herewith, and to its actual knowledge, the statements made therein are hue and correct; and

(d) the undersigned understands that the Company may condition the transfer of the Warrant contemplated hereby upon the delivery to the Company by the undersigned or the Transferee, as the case may be, of a written opinion of counsel (which opinion shall be in form, substance and scope customary for opinions of counsel in comparable transactions) to the effect that such transfer may be made without registration under the Securities Act and under applicable securities laws of the states of the United States.

Dated: _____, __

_____
(Signature must conform in all respects to name of holder as specified on the face of the Warrant)

_____
Address of Transferee

_____

_____

In the presence of: _____

NEITHER THESE SECURITIES NOR THE SECURITIES ISSUABLE UPON EXERCISE OF THESE SECURITIES HAVE BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION OR THE SECURITIES COMMISSION OF ANY STATE IN RELIANCE UPON AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "***SECURITIES ACT***") AND APPLICABLE STATE SECURITIES LAWS AND, ACCORDINGLY, MAY NOT BE OFFERED OR SOLD EXCEPT PURSUANT TO (I) AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR (II) AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS OR BLUE SKY LAWS. THESE SECURITIES AND THE SECURITIES ISSUABLE UPON EXERCISE OF THESE SECURITIES MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN SECURED BY SUCH SECURITIES.

ETON PHARMACEUTICALS, INC.

WARRANT TO PURCHASE COMMON STOCK

Warrant No. 1 Original Issue Date: June 26, 2017

Eton Pharmaceuticals, Inc., a Delaware corporation (the "***Company***"), hereby certifies that, for value received, National Securities Corporation, or its permitted registered assigns (the "***Holder***"), is entitled to purchase from the Company such number of shares of common stock, $0.001 par value (the "***Common Stock***"), of the Company (each such share, a "***Warrant Share***" and all such shares, the "***Warrant Shares***") as determined in accordance with the terms herewith, at the Exercise Price (as defined below), at any time and from time to time from on or after the date hereof (the "***Trigger Date***") and through and including 5:00 P.M., prevailing Pacific time, on June 26, 2022 (the "***Expiration Date***"), and subject to the following terms and conditions:

This Warrant (this "***Warrant***") is issued pursuant to that certain Engagement Agreement dated April 28, 2017 between the Company and the Holder (the "***Engagement Agreement***").

1. Definitions. In addition to the terms defined elsewhere in this Warrant, capitalized terms that are not otherwise defined herein have the meanings given to such terms in the Engagement Agreement. As used in this Warrant, the term "***Series A Preferred Stock***" shall mean the Company's $0.001 par value Series A Preferred Stock and the term "***Conversion Price***" shall have the meaning given to it in Section 8 of the Amended and Restated Certificate of Incorporation ("***Certificate of Incorporation***") of the Company filed with the Delaware Secretary of State on June 15, 2017.

2. Exercise Price. For purposes of this Warrant, the "***Exercise Price***" shall be equal to 100% of the Conversion Price of the Series A Preferred Stock, as determined pursuant to Section 8 of the Certificate of Incorporation. Notwithstanding the foregoing, until such time as the Series A Preferred Stock is converted pursuant to Section 8 of the Certificate of Incorporation, the Exercise Price shall be equal to $3.00 (as adjusted from time to time as provided in Section 11 herein).

3. Number of Warrant Shares. The aggregate number of Warrant Shares shall be equal to 10% of the aggregate number of shares of Common Stock issued by the Company upon conversion of 6,576,748 shares (as adjusted for combinations, subdivisions and the like) of the Series A Preferred Stock pursuant to Section 8 of the Certificate of Incorporation. Notwithstanding the foregoing, until such time as the Series A Preferred Stock is converted pursuant to Section 8 of the Certificate of Incorporation, the number of Warrant Shares shall be equal to 657,675 shares of Common Stock (as adjusted from time to time as provided in Section 11 herein).

4. Registration of Warrants. 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 (which shall include the initial Holder or, as the case may be, any registered assignee to which this Warrant is permissibly assigned hereunder) 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.

5. Registration of Transfers. The Company shall register the transfer of all or any portion of this Warrant in the Warrant Register, upon (i) surrender of this Warrant, with the Form of Assignment attached as Schedule 2 hereto duly completed and signed, to the Company's transfer agent or to the Company at its address specified herein (ii) delivery, at the request of the Company, of an opinion of counsel reasonably satisfactory to the Company to the effect that the transfer of such portion of this Warrant may be made pursuant to an available exemption from the registration requirements of the Securities Act of 1933 ("***Securities Act***") and all applicable state securities or blue sky laws and (iii) delivery by the transferee of a written statement to the Company certifying that the transferee is an "accredited investor" as defined in Rule 501(a) under the Securities Act and making the representations and certifications as the Company may reasonably request to procure an exemption from section 5 of the Securities Act. Upon any such registration or transfer, a new warrant to purchase Common Stock in substantially the form of this Warrant (any such new warrant, a "***New Warrant***") evidencing the portion of this Warrant so transferred shall be issued to the transferee, and a New Warrant evidencing the remaining portion of this Warrant not so transferred, if any, shall be issued to the transferring Holder. The acceptance of the New Warrant by the transferee thereof shall be deemed the acceptance by such transferee of all of the rights and obligations of a Holder of a Warrant.

6. Exercise and Duration of Warrants.

(a) All or any part of this Warrant shall be exercisable by the registered Holder at any time and from time to time on or after the Trigger Date and through and including 5:00 P.M. prevailing Pacific time on the Expiration Date. At 5:00 P.M., prevailing Pacific time, on the Expiration Date, the portion of this Warrant not exercised prior thereto shall be and become void and of no value and this Warrant shall be terminated and no longer outstanding.

(b) The Holder may exercise this Warrant by delivering to the Company (i) an exercise notice, in the form attached as Schedule 1 hereto (the "***Exercise Notice***"), appropriately completed and duly signed, (ii) payment of the Exercise Price for the number of Warrant Shares as to which this Warrant is being exercised (which may take the form of a "cashless exercise" if so indicated in the Exercise Notice and if a "cashless exercise" may occur at such time pursuant to Section 12 below), and the date such items are delivered to the Company (as determined in accordance with the notice provisions hereof) is an "***Exercise Date***." The Holder shall not be required to deliver the original Warrant in order to effect an exercise hereunder. Execution and delivery of the Exercise Notice shall have the same effect as cancellation of the original Warrant and issuance of a New Warrant evidencing the right to purchase the remaining number of Warrant Shares.

7. Delivery of Warrant Shares. Upon exercise of this Warrant, the Company shall promptly issue or cause to be issued and cause to be delivered to or upon the written order of the Holder and in such name or names as the Holder may designate a certificate for the Warrant Shares issuable upon such exercise, with an appropriate restrictive legend. The Holder, or any Person permissibly so designated by the Holder to receive Warrant Shares, shall be deemed to have become the holder of record of such Warrant Shares as of the Exercise Date.

8. Charges, Taxes and Expenses. Issuance and delivery of certificates for shares of Common Stock upon exercise of this Warrant shall be made without charge to the Holder for any issue or transfer tax, transfer agent fee or other incidental tax or expense in respect of the issuance of such certificates, all of which taxes and expenses shall be paid by the Company; *provided*, *however*, that the Company shall not be required to pay any tax which may be payable in respect of any transfer involved in the registration of any certificates for Warrant Shares or Warrants in a name other than that of the Holder or an Affiliate thereof. The Holder shall be responsible for all other tax liability that may arise as a result of holding or transferring this Warrant or receiving Warrant Shares upon exercise hereof.

9. Replacement of Warrant. If this Warrant is mutilated, lost, stolen or destroyed, the Company shall issue or cause to be issued in exchange and substitution for and upon cancellation hereof, or in lieu of and substitution for this Warrant, a New Warrant, but only upon receipt of evidence reasonably satisfactory to the Company of such loss, theft or destruction (in such case) and, in each case, a customary and reasonable indemnity (which shall not include a surety bond), if requested. Applicants for a New Warrant under such circumstances shall also comply with such other reasonable regulations and procedures and pay such other reasonable third-party costs as the Company may prescribe. If a New Warrant is requested as a result of a mutilation of this Warrant, then the Holder shall deliver such mutilated Warrant to the Company as a condition precedent to the Company's obligation to issue the New Warrant.

10. Reservation of Warrant Shares. The Company covenants that it will at all times reserve and keep available out of the aggregate of its authorized but unissued and otherwise unreserved Common Stock, solely for the purpose of enabling it to issue Warrant Shares upon exercise of this Warrant as herein provided, the number of Warrant Shares which are then issuable and deliverable upon the exercise of this entire Warrant, free from preemptive rights or any other contingent purchase rights of persons other than the Holder (taking into account the adjustments and restrictions of Section 11). The Company covenants that all Warrant Shares so issuable and deliverable shall, upon issuance and the payment of the applicable Exercise Price in accordance with the terms hereof, be duly and validly authorized, issued and fully paid and nonassessable. The Company will take all such action as may be necessary to assure that such shares of Common Stock may be issued as provided herein without violation of any applicable law or regulation, or of any requirements of any securities exchange or automated quotation system upon which the Common Shares may be listed.

11. Certain Adjustments. The Exercise Price and number of Warrant Shares issuable upon exercise of this Warrant are subject to adjustment from time to time as set forth in this Section 11.

(a) Stock Dividends and Splits. If the Company, at any time while this Warrant is outstanding, (i) pays a stock dividend on its Common Stock or otherwise makes a distribution on any class of capital stock that is payable in shares of Common Stock, (ii) subdivides its outstanding shares of Common Stock into a larger number of shares, or (iii) combines its outstanding shares of Common Stock into a smaller number of shares, then in each such case the Exercise Price shall be multiplied by a fraction, the numerator of which shall be the number of shares of Common Stock outstanding immediately before such event and the denominator of which shall be the number of shares of Common Stock outstanding immediately after such event. Any adjustment made pursuant to clause (i) of this paragraph shall become effective immediately after the record date for the determination of stockholders entitled to receive such dividend or distribution, and any adjustment pursuant to clause (ii) or (iii) of this paragraph shall become effective immediately after the effective date of such subdivision or combination.

(b) Fundamental Transactions. If, at any time while this Warrant is outstanding (i) the Company effects any merger or consolidation of the Company with or into another Person, in which the Company is not the survivor, (ii) the Company effects any sale of all or substantially all of its assets or a majority of its Common Stock is acquired by a third party, in each case, in one or a series of related transactions, (iii) any tender offer or exchange offer (whether by the Company or another Person) is completed pursuant to which all or substantially all of the holders of Common Stock are permitted to tender or exchange their shares for other securities, cash or property, or (iv) the Company effects any reclassification 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 (other than as a result of a subdivision or combination of shares of Common Stock covered by Section 11(a) above) (in any such case, a "***Fundamental Transaction***"), then the Holder shall have the right thereafter to receive, upon exercise of this Warrant, the same amount and kind of securities, cash or property as it would have been entitled to receive upon the occurrence of such Fundamental Transaction if it had been, immediately prior to such Fundamental Transaction, the holder of the number of Warrant Shares then issuable upon exercise in full of this Warrant without regard to any limitations on exercise contained herein (the "***Alternate Consideration***"). The Company shall not effect any such Fundamental Transaction unless prior to or simultaneously with the consummation thereof, any successor to the Company, surviving entity or the corporation purchasing or otherwise acquiring such assets or other appropriate corporation or entity shall assume the obligation to deliver to the Holder, such Alternate Consideration as, in accordance with the foregoing provisions, the Holder may be entitled to purchase and/or receive (as the case may be), and the other obligations under this Warrant. The provisions of this paragraph (c) shall similarly apply to subsequent transactions analogous to a Fundamental Transaction.

(c) Number of Warrant Shares. Simultaneously with any adjustment to the Exercise Price pursuant to paragraph (a) of this Section, the number of Warrant Shares that may be purchased upon exercise of this Warrant shall be increased or decreased proportionately, so that after such adjustment the aggregate Exercise Price payable hereunder for the increased or decreased number of Warrant Shares shall be the same as the aggregate Exercise Price in effect immediately prior to such adjustment.

(d) Calculations. All calculations under this Section 11 shall be made to the nearest cent or the nearest $1/100^{th}$ of a share, as applicable. The number of shares of Common Stock outstanding at any given time shall not include shares owned or held by or for the account of the Company, and the sale or issuance of any such shares shall be considered an issue or sale of Common Stock.

(e) Notice of Adjustments. Upon the occurrence of each adjustment pursuant to this Section 11, the Company at its expense will, at the written request of the Holder, promptly compute such adjustment, in good faith, in accordance with the terms of this Warrant and prepare a certificate setting forth such adjustment, including a statement of the adjusted Exercise Price and adjusted number or type of Warrant Shares or other securities issuable upon exercise of this Warrant (as applicable), describing the transactions giving rise to such adjustments and showing in detail the facts upon which such adjustment is based. Upon written request, the Company will promptly deliver a copy of each such certificate to the Holder and to the Company's transfer agent.

(f) Notice of Corporate Events. If, while this Warrant is outstanding, the Company (i) declares a dividend or any other distribution of cash, securities or other property in respect of its Common Stock, including, without limitation, any granting of rights or warrants to subscribe for or purchase any capital stock of the Company, (ii) authorizes or approves, enters into any agreement contemplating or solicits stockholder approval for any Fundamental Transaction or (iii) authorizes the voluntary dissolution, liquidation or winding up of the affairs of the Company, then, except if such notice and the contents thereof shall be deemed to constitute material non-public information, the Company shall deliver to the Holder a notice describing the material terms and conditions of such transaction at least ten (10) Trading Days prior to the applicable record or effective date on which a Person would need to hold Common Stock in order to participate in or vote with respect to such transaction, and the Company will take all steps reasonably necessary in order to insure that the Holder is given the practical opportunity to exercise this Warrant prior to such time so as to participate in or vote with respect to such transaction; *provided, however*, that the failure to deliver such notice or any defect therein shall not affect the validity of the corporate action required to be described in such notice.

12. Payment of Exercise Price. The Holder shall pay the Exercise Price in immediately available funds; *provided, however*, the Holder may, in its sole discretion, commencing on the date that is 18 months from the date of this Warrant, satisfy its obligation to pay the Exercise Price through a "cashless exercise", in which event the Company shall issue to the Holder the number of Warrant Shares determined as follows:

$$X = Y [(A-B)/A]$$

where:

X = the number of Warrant Shares to be issued to the Holder.

Y = the total number of Warrant Shares with respect to which this Warrant is being exercised.

A = the average of the Closing Sale Prices of the shares of Common Stock (as reported by Bloomberg Financial Markets) for the five Trading Days ending on the date immediately preceding the Exercise Date.

B = the Exercise Price then in effect for the applicable Warrant Shares at the time of such exercise.

For purposes of this Warrant, "***Closing Sale Price***" means, for any security as of any date, the last trade price for such security on the principal securities exchange or trading market for such security, as reported by Bloomberg Financial Markets, or, if such exchange or trading market begins to operate on an extended hours basis and does not designate the last trade price, then the last trade price of such security prior to 4:00:00 p.m., New York Time, as reported by Bloomberg Financial Markets, or if the foregoing do not apply, the last trade price of such security in the over-the-counter market on the electronic bulletin board for such security as reported by Bloomberg Financial Markets, or, if no last trade price is reported for such security by Bloomberg Financial Markets, the average of the bid prices, or the ask prices, respectively, of any market makers for such security as reported in the "**pink sheets**" by Pink Sheets LLC. If the Closing Sale Price cannot be calculated for a security on a particular date on any of the foregoing bases, the Closing Sale Price of such security on such date shall be the fair market value as mutually determined by the Company and the Holder. If the Company and the Holder are unable to agree upon the fair market value of such security, then the Company shall, within two business days submit via facsimile (a) the disputed determination of the Warrant Exercise Price to an independent, reputable investment bank selected by the Company and approved by the Holder or (b) the disputed arithmetic calculation of the Warrant Shares to the Company's independent, outside accountant. The Company shall cause at its expense the investment bank or the accountant, as the case may be, to perform the determinations or calculations and notify the Company and the Holder of the results no later than ten business days from the time it receives the disputed determinations or calculations. Such investment bank's or accountant's determination or calculation, as the case may be, shall be binding upon all parties absent demonstrable error. All such determinations to be appropriately adjusted for any stock dividend, stock split, stock combination or other similar transaction during the applicable calculation period.

For purposes of Rule 144 promulgated under the Securities Act, it is intended, understood and acknowledged that the Warrant Shares issued in a cashless exercise transaction shall be deemed to have been acquired by the Holder, and the holding period for the Warrant Shares shall be deemed to have commenced, on the date this Warrant was originally issued pursuant to the Consulting Agreement (provided that the Commission continues to take the position that such treatment is proper at the time of such exercise).

13. Limitation on Exercises. The Company shall not effect the exercise of this Warrant, and the Holder shall not have the right to exercise this Warrant, to the extent that after giving effect to such exercise, the Holder (together with such Holder's affiliates) would beneficially own in excess of 4.99% ("***Maximum Percentage***") of the shares of Common Stock outstanding immediately after giving effect to such exercise. For purposes of the foregoing sentence, the aggregate number of shares of Common Stock beneficially owned by such Holder and its affiliates shall include the number of shares of Common Stock issuable upon exercise of this Warrant with respect to which the determination of such sentence is being made, but shall exclude shares of Common Stock which would be issuable upon (A) exercise of the remaining, unexercised portion of this Warrant beneficially owned by such Holder and its affiliates and (B) exercise or conversion of the unexercised or unconverted portion of any other securities of the Company beneficially owned by such Person and its affiliates (including, without limitation, any convertible notes or convertible preferred stock or warrants) subject to a limitation on conversion or exercise analogous to the limitation contained herein. Except as set forth in the preceding sentence, for purposes of this paragraph, beneficial ownership shall be calculated in accordance with Section 13(d) of the Securities Exchange Act of 1934, as amended. To the extent that the limitation contained in this Section 13 applies, the determination of whether this Warrant is exercisable (in relation to other securities owned by the Holder together with any affiliate) 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 affiliate) and of which portion of this Warrant is exercisable, in each case subject to such aggregate percentage limitation, and the Company shall have no obligation to verify or confirm the accuracy of the determination. For purposes of this Warrant, in determining the number of outstanding shares of Common Stock, the Holder may rely on the number of outstanding shares of Common Stock as reflected in (1) the Company's most recent Form 10-K, Form 10-Q, Current Report on Form 8-K or other public filing with the Securities and Exchange Commission, as the case may be, (2) a more recent public announcement by the Company or (3) any other notice by the Company setting forth the number of shares of Common Stock outstanding. For any reason at any time, upon the written or oral request of the Holder, the Company shall within one (1) business 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 and its affiliates since the date as of which such number of outstanding shares of Common Stock was reported. By written notice to the Company, any Holder may decrease the Maximum Percentage to any other percentage specified in such notice; provided that such decrease will apply only to the Holder sending such notice and not to any other holder of Warrants. In addition, by written notice to the Company, any Holder may remove the limitations on exercises provided in this Section 13 entirely; provided that (i) any such removal will not be effective until the 61st day after such notice is delivered to the Company, and (ii) any such removal will apply only to the Holder sending such notice and not to any other holder of Warrants. The provisions of this paragraph shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this Section 13 to correct this paragraph (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.

14. No Fractional Shares. No fractional Warrant Shares will be issued in connection with any exercise of this Warrant. In lieu of any fractional shares which would otherwise be issuable, the number of Warrant Shares to be issued shall be rounded up to the next whole number.

15. Notices. Any and all notices or other communications or deliveries hereunder (including, without limitation, any Exercise Notice) shall be in writing and shall be deemed given and effective on the earliest of (i) the date of transmission, if such notice or communication is delivered via email at the email address specified in the Engagement Agreement prior to 5:00 p.m. (prevailing Pacific time) on a Trading Day, (ii) the next Trading Day after the date of transmission, if such notice or communication is delivered via email at the email address specified in the Engagement Agreement on a day that is not a Trading Day or later than 5:00 p.m. (prevailing Pacific time) on any Trading Day, (iii) the Trading Day following the date of mailing, if sent by nationally recognized overnight courier service specifying next business day delivery, or (iv) upon actual receipt by the party to whom such notice is required to be given, if by hand delivery. The address and facsimile number of a party for such notices or communications shall be as set forth in the Engagement Agreement unless changed by such party by two Trading Days' prior notice to the other party in accordance with this Section 15.

16. Warrant Agent. The Company shall serve as warrant agent under this Warrant. Upon thirty (30) days' notice to the Holder, the Company may appoint a new warrant agent. Any corporation into which the Company or any new warrant agent may be merged or any corporation resulting from any consolidation to which the Company or any new warrant agent shall be a party or any corporation to which the Company or any new warrant agent transfers substantially all of its corporate trust or shareholders' services business shall be a successor warrant agent under this Warrant without any further act. Any such successor warrant agent shall promptly cause notice of its succession as warrant agent to be mailed (by first class mail, postage prepaid) to the Holder at the Holder's last address as shown on the Warrant Register.

17. Registration Rights. The Company agrees that the Holder and its assigns will have registration rights covering the resale of the Warrant Shares, including "**piggyback**" registration rights on the registrations of the Company or demand registrations (voting with the other registrable securities to effect any such demand), no less favorable than those granted to any other person by the Company prior or subsequent to the date of this Warrant. At such time, and from time to time, as the Company enters into an agreement subsequent to the date of this Warrant pursuant to which the Company grants any third party rights with respect to the Company's registration of Company securities under the Securities Act held by such party, the Company shall offer to enter into a formal written registration rights agreement with the Holder and its assigns on substantially the same terms and such other terms as are customary and usual for agreements of such nature. In addition to, and without restricting or limiting the scope of this subparagraph (a), the Company further agrees that:

(a) Right to Piggyback. Whenever the Company proposes to register any of its securities under the Securities Act, the Company will give prompt written notice to the Holder of its intention to effect such registration and will include in such registration all Warrant Shares with respect to which the Company has received a written request from the Holder for inclusion therein within 15 days after the receipt of the Company's notice. The Company will pay, or cause to be paid, the registration expenses of the Holder in all piggyback registrations.

(b) Underwritten Offering. If a piggyback registration is an underwritten primary or secondary registration on behalf of the Company and/or other holders of the Common Stock, and the managing underwriters advise the Company in writing that in their opinion the number of shares requested to be included in such registration (including the Warrant Shares and any other shares of Common Stock held by holders with registration rights) exceeds the number which can be sold in such offering without materially and adversely affecting the marketability of the offering, the Company will promptly furnish the Holder with a copy of the underwriter's opinion and may, by written notice to the Holder, include in such registration (i) first, the securities the Company proposes to sell, (ii) second, the Common Stock requested to be included in such registration pro rata among all holders with registration rights on the basis of the number of shares owned by each such holder, and (iii) third, exclude all the Common Stock requested to be included in such registration statement of all holders with registration rights.

(c) Underwriting Agreement. In any registration in which the Warrant Shares is to be included, the Holder shall be a party to the underwriting agreement entered into by the Company in connection therewith, and the representations and warranties by, and the other agreements on the part of, the Company and for the benefit of the underwriters shall also be made to and for the benefit of the Holder.

(d) Documents, etc. The Company shall provide to the Holder any and all documents, statements, opinions and forms as the Holder reasonably deems necessary for the Holder to participate in any piggyback registrations and to facilitate the disposition of the Warrant Shares covered by such registration pursuant to the terms and conditions of this Agreement and the applicable securities laws.

(e) Indemnification. In the event of any piggyback registration of any Warrant Shares under the Securities Act, and in connection with any registration statement or any other disclosure document pursuant to which securities of the Company are sold, the Company will, and hereby does, jointly and severally, indemnify and hold harmless the Holder, its directors, officers, fiduciaries, and agents (each, a "***Covered Person***") against any losses, claims, damages or liabilities, joint or several, to which such Covered Person may be or become subject under the Securities Act, any other securities or other laws of any jurisdiction, common law or otherwise, insofar as such losses, claims, damages or liabilities (or actions or proceedings in respect thereof) arise out of or are based upon (1) any untrue statement or alleged untrue statement of any material fact contained or incorporated by reference in any registration statement under the Securities Act, any preliminary prospectus or final prospectus included therein, or any amendment or supplement thereto, or any document incorporated by reference therein, or any other such disclosure document, or (2) any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statement therein not misleading, and will reimburse such Covered Person for any legal or any other expenses incurred by in connection with investigating or defending any such loss, claim, damage, liability, action or proceeding; provided, however, the Company shall not be liable to any Covered Person in any such case to the extent that any such loss, claim, damage, liability, action or proceeding is determined, by a final, non-appealable judgment by a court or arbitral tribunal of competent jurisdiction, to have arisen out of or is based upon an untrue statement or alleged untrue statement or omission or alleged omission made in such registration statement, any such preliminary prospectus, final prospectus, amendment or supplement, any document incorporated by reference or other such disclosure document in reliance upon and in conformity with written information furnished to the Company through an instrument duly executed by such Covered Person specifically stating this it is for use in the preparation thereof.

(f) All fees and expenses incurred by the Company in connection with the performance of its obligation to register the Warrant Shares pursuant to Section 17 shall be borne by the Company; provided that any fees and expenses of the holder or holders thereof or of its or their counsel, and transfer taxes applicable to the sale of such Warrant Shares, shall be borne by such holder or holders.

18. Miscellaneous.

(a) The Holder, solely in such Person's capacity as a holder of this Warrant, shall not be entitled to vote or receive dividends or be deemed the holder of share capital of the Company for any purpose, nor shall anything contained in this Warrant be construed to confer upon the Holder, solely in such Person's capacity as the Holder of this Warrant, any of the rights of a stockholder of the Company or any right to vote, give or withhold consent to any corporate action (whether any reorganization, issue of stock, reclassification of stock, consolidation, merger, amalgamation, conveyance or otherwise), receive notice of meetings, receive dividends or subscription rights, or otherwise, prior to the issuance to the Holder of the Warrant Shares which such Person is then entitled to receive upon the due exercise of this Warrant. In addition, nothing contained in this Warrant shall be construed as imposing any liabilities on the Holder to purchase any securities (upon exercise of this Warrant or otherwise) or as a stockholder of the Company, whether such liabilities are asserted by the Company or by creditors of the Company. Notwithstanding this Section 16(a), the Company shall provide the Holder with copies of the same notices and other information given to the shareholders of the Company, contemporaneously with the giving thereof to the shareholders.

(b) Subject to the restrictions on transfer set forth on the first page hereof, and compliance with applicable securities laws, this Warrant may be assigned by the Holder. This Warrant may not be assigned by the Company except to a successor in the event of a Fundamental Transaction. This Warrant shall be binding on and inure to the benefit of the parties hereto and their respective successors and assigns. Subject to the preceding sentence, nothing in this Warrant shall be construed to give to any Person other than the Company and the Holder any legal or equitable right, remedy or cause of action under this Warrant. This Warrant may be amended only in writing signed by the Company and the Holder, or their successors and assigns.

(c) GOVERNING LAW; VENUE; WAIVER OF JURY TRIAL. ALL QUESTIONS CONCERNING THE CONSTRUCTION, VALIDITY, ENFORCEMENT AND INTERPRETATION OF THIS WARRANT SHALL BE GOVERNED BY AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO THE PRINCIPLES OF CONFLICTS OF LAW THEREOF. 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 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. EACH PARTY 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 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 MANNER PERMITTED BY LAW. THE COMPANY HEREBY WAIVES ALL RIGHTS TO A TRIAL BY JURY.

(d) The headings herein are for convenience only, do not constitute a part of this Warrant and shall not be deemed to limit or affect any of the provisions hereof.

(e) In case any one or more of the provisions of this Warrant shall be invalid or unenforceable in any respect, the validity and enforceability of the remaining terms and provisions of this Warrant shall not in any way be affected or impaired thereby, and the parties will attempt in good faith to agree upon a valid and enforceable provision which shall be a commercially reasonable substitute therefor, and upon so agreeing, shall incorporate such substitute provision in this Warrant.

(f) Except as otherwise set forth herein, prior to exercise of this Warrant, the Holder hereof shall not, by reason of by being a Holder, be entitled to any rights of a stockholder with respect to the Warrant Shares.

IN WITNESS WHEREOF, the Company has caused this Warrant to be duly executed by its authorized officer as of the date first indicated above.

ETON PHARMACEUTICALS, INC.

By:	*/s/ Mark L. Baum*
Name:	Mark L. Baum
Title:	Executive Director

SCHEDULE 1

FORM OF EXERCISE NOTICE

(To be executed by the Holder to exercise the right to purchase shares
of Common Stock under the foregoing Warrant)

Ladies and Gentlemen:

(1) The undersigned is the Holder of Warrant No. _____ (the "**Warrant**") issued by Eton Pharmaceuticals, Inc. (the "**Company**"). Capitalized terms used herein and not otherwise defined herein have the respective meanings set forth in the Warrant.

(2) The undersigned hereby exercises its right to purchase _____ Warrant Shares pursuant to the Warrant.

(3) The Holder intends that payment of the Exercise Price shall be made as (check one):

☐ Cash Exercise

☐ "Cashless Exercise" under Section 12

(4) If the Holder has elected a Cash Exercise, the Holder shall pay the sum of $_____ in immediately available funds to the Company in accordance with the terms of the Warrant.

(5) Pursuant to this Exercise Notice, the Company shall deliver to the Holder _____ Warrant Shares in accordance with the terms of the Warrant.

Dated:_____, _____

[Company]

By:

Signature must conform in all respects to name of Holder as specified on the face of the Warrant)

SCHEDULE 2

FORM OF ASSIGNMENT

[To be completed and signed only upon transfer of Warrant]

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto _____ (the "***Transferee***" the right represented by the within Warrant to purchase _____ shares of Common Stock of Eton Pharmaceuticals, Inc. (the "***Company***") to which the within Warrant relates and appoints _____ attorney to transfer said right on the books of the Company with full power of substitution in the premises. In connection therewith, the undersigned represents, warrants, covenants and agrees to and with the Company that:

(a) the offer and sale of the Warrant contemplated hereby is being made in compliance with Section 4(a)(1) of the United States Securities Act of 1933, as amended (the "***Securities Act***") or another valid exemption from the registration requirements of Section 5 of the Securities Act and in compliance with all applicable securities laws of the states of the United States;

(b) the undersigned has not offered to sell the Warrant by any form of general solicitation or general advertising, including, but not limited to, any advertisement, article, notice or other communication published in any newspaper, magazine or similar media or broadcast over television or radio, and any seminar or meeting whose attendees have been invited by any general solicitation or general advertising;

(c) the undersigned has read the Transferee's investment letter included herewith, and to its actual knowledge, the statements made therein are true and correct; and

(d) the undersigned understands that the Company may condition the transfer of the Warrant contemplated hereby upon the delivery to the Company by the undersigned or the Transferee, as the case may be, of a written opinion of counsel (which opinion shall be in form, substance and scope customary for opinions of counsel in comparable transactions) to the effect that such transfer may be made without registration under the Securities Act and under applicable securities laws of the states of the United States.

Dated:_____, _____

[Company]

By:

(Signature must conform in all respects to name of Holder as specified on the face of the Warrant)

In the presence of:

Address of Transferee

Exhibit 10.1

SECURITIES PURCHASE AGREEMENT

This **SECURITIES PURCHASE AGREEMENT** (this "**Agreement**"), dated as of June 19, 2017 (the "**Effective Date**"), is by and among Eton Pharmaceuticals, Inc., a Delaware corporation (the "**Company**"), and the investors listed on the Schedule of Buyers, attached hereto as **Exhibit A** (individually, a "**Buyer**" and collectively, the "**Buyers**").

RECITALS

A. The Company and each Buyer is executing and delivering this Agreement in reliance upon the exemption from securities registration afforded by Section 4(a)(2) of the Securities Act of 1933, as amended (the "**1933 Act**"), and Rule 506 of Regulation D ("**Regulation D**"), as promulgated by the United States Securities and Exchange Commission (the "**SEC**") under the 1933 Act.

B. The Company has authorized the issuance of Series A Convertible Preferred Stock, par value $0.001 (the "**Shares**") in accordance with the form of the Amended and Restated Certificate of Incorporation attached hereto as **Exhibit B** (the "**Certificate**"), which Shares shall be convertible into shares of the Company's common stock, par value $0.001 (the "**Common Stock**") (as converted, collectively, the "**Conversion Shares**"), in accordance with the terms of the Certificate.

C. Each Buyer wishes to purchase, and the Company wishes to sell, upon the terms and conditions stated in this Agreement, the aggregate number of Shares set forth opposite such Buyer's name in column (3) on the Schedule of Buyers.

D. At each Closing (as defined below), the parties hereto shall execute and deliver a Registration Rights Agreement, in the form attached hereto as **Exhibit C** (the "**Registration Rights Agreement**"), pursuant to which the Company has agreed to provide certain registration rights with respect to the Registrable Securities (as defined in the Registration Rights Agreement), under the 1933 Act and the rules and regulations promulgated thereunder, and applicable state securities laws.

E. In connection with the Offering, the Company, together with National Securities Corporation (the "**Placement Agent**"), have entered into an escrow agreement, in the form attached hereto as **Exhibit D** (the "**Escrow Agreement**"), with Delaware Trust Company (the ("**Escrow Agent**"), to hold the Purchase Price (as hereinafter defined), to be released at each Closing to the Company, upon the written consent of the Company and the Placement Agent.

F. The Shares and the Conversion Shares are collectively referred to herein as the "**Securities**."

AGREEMENT

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company and each Buyer hereby agree as follows:

1. AUTHORIZATION, SALE AND ISSUANCE OF SERIES A CONVERTIBLE PREFERRED STOCK.

(a) Authorization. The Company will, prior to the Initial Closing Date (as defined below), authorize (a) the sale and issuance of the Shares, having the rights, privileges, preferences and restrictions set forth in the Certificate; and (b) the reservation of Conversion Shares for issuance upon conversion of the Shares.

(b) Series A Convertible Preferred Stock. Subject to the satisfaction (or waiver) of the conditions set forth in Sections 6 and 7 below, the Company shall issue and sell to each Buyer, and each Buyer severally, but not jointly, shall purchase from the Company on each Closing Date, the number of Shares as is set forth opposite such Buyer's name in column (3) on the Schedule of Buyers.

(c) Closing. The closing of the purchase of the Shares by the Buyers shall occur at one or more closings (each of which is referred to as a "**Closing**" and the date of each is referred to as a "**Closing Date**"). Each Closing shall take place at the offices of Greenberg Traurig, LLP, 3161 Michelson Drive, Suite 1000, Irvine, CA 92612. The date and time of the initial Closing (the "**Initial Closing Date**") shall be 11:00 a.m., New York time, on the first Business Day on which the conditions to the initial Closing ("**Initial Closing**") set forth in Sections 6 and 7 below are satisfied or waived (or such later date as is mutually agreed to by the Company and each Buyer). As used herein "**Business Day**" means any day other than a Saturday, Sunday or other day on which commercial banks in New York, New York are authorized or required by law to remain closed.

(d) Purchase Price. The aggregate of all Shares purchased and sold shall be no less than Fifteen Million Dollars ($15,000,000) at a cash purchase price of $3.00 per share. The aggregate purchase price for the Shares to be purchased by each Buyer (the "**Purchase Price**") shall be the amount set forth opposite such Buyer's name in column (4) on the Schedule of Buyers.

(e) Payment of Purchase Price; Delivery of Shares. On each Closing Date, (i) each Buyer shall pay its respective Purchase Price to the Company through the Escrow Agent for their respective Shares to be issued and sold to such Buyer at such Closing, and (ii) the Company shall deliver to each Buyer either (i) a certificate registered in such Buyer's name (representing the number of Shares as is set forth opposite such Buyer's name in column (3) on the Schedule of Buyers) or (ii) an irrevocable instruction letter to the Company's transfer agent to issue a certificate registered in such Buyer's name (representing the number of Shares as is set forth opposite such Buyer's name in column (3) on the Schedule of Buyers) and deliver such certificate to the Buyer as soon thereafter as possible.

2. BUYER'S REPRESENTATIONS AND WARRANTIES.

Each Buyer represents and warrants to the Company with respect to only itself that:

(a) Organization; Authority. Such Buyer (i) if an entity, is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization with the requisite power and authority to enter into and to consummate the transactions contemplated by the Transaction Documents (as defined below) to which it is a party and otherwise to carry out its obligations hereunder and thereunder, or (ii) if an individual, has the legal capacity to enter into and to consummate the transactions contemplated by the Transaction Documents to which it is a party and otherwise to carry out its obligations hereunder and thereunder.

(b) No Public Sale or Distribution. Such Buyer (i) is acquiring its Shares, and (ii) upon conversion of its Shares will acquire the Conversion Shares issuable upon conversion thereof, in each case, for its own account and not with a view towards, or for resale in connection with, the public sale or distribution thereof in violation of applicable securities laws, except pursuant to sales registered or exempted under the 1933 Act; provided, however, by making the representations herein, such Buyer does not agree, or make any representation or warranty, to hold any of the Securities for any minimum or other specific term and reserves the right to dispose of the Securities at any time in accordance with or pursuant to a registration statement or an exemption under the 1933 Act. Such Buyer does not presently have any agreement or understanding, directly or indirectly, with any Person (as defined below) to distribute any of the Securities in violation of applicable securities laws.

(c) Accredited Investor Status. Such Buyer is an "accredited investor" as that term is defined in Rule 501(a) of Regulation D.

(d) Reliance on Exemptions. Such Buyer understands that the Securities are being offered and sold to it in reliance on specific exemptions from the registration requirements of United States federal and state securities laws and that the Company is relying in part upon the truth and accuracy of, and such Buyer's compliance with, the representations, warranties, agreements, acknowledgments and understandings of such Buyer set forth herein in order to determine the availability of such exemptions and the eligibility of such Buyer to acquire the Securities.

(e) Information. Such Buyer and its advisors, if any, have been furnished with the Company's private placement memorandum, dated May 17, 2017, (the "**Private Placement Memorandum**"), and all other materials relating to the business, finances and operations of the Company and materials relating to the offer and sale of the Securities which have been requested by such Buyer. Such Buyer and its advisors, if any, have been afforded the opportunity to ask questions of the Company. Such Buyer understands that its investment in the Securities involves a high degree of risk. Such Buyer has sought such accounting, legal and tax advice as it has considered necessary to make an informed investment decision with respect to its acquisition of the Securities.

(f) No Governmental Review. Such Buyer understands that no United States federal or state agency or any other government or governmental agency has passed on or made any recommendation or endorsement of the Securities or the fairness or suitability of the investment in the Securities nor have such authorities passed upon or endorsed the merits of the offering of the Securities.

(g) Transfer or Resale. Such Buyer understands that except as provided in the Registration Rights Agreement or Section 4(h) hereof: (i) the Securities have not been and are not being registered under the 1933 Act or any state securities laws, and may not be offered for sale, sold, assigned or transferred unless (A) subsequently registered thereunder, (B) such Buyer shall have delivered to the Company (if requested by the Company) an opinion of counsel to such Buyer, in a form reasonably acceptable to the Company, to the effect that such Securities to be sold, assigned or transferred may be sold, assigned or transferred pursuant to an exemption from such registration, or (C) such Buyer provides the Company with reasonable assurance and documentation as may be requested by the Company or its legal counsel that such Securities can be sold, assigned or transferred pursuant to Rule 144 or Rule 144A promulgated under the 1933 Act (or a successor rule thereto) (collectively, "**Rule 144**"); (ii) any sale of the Securities made in reliance on Rule 144 may be made only in accordance with the terms of Rule 144, and further, if Rule 144 is not applicable, any resale of the Securities under circumstances in which the seller (or the Person through whom the sale is made) may be deemed to be an underwriter (as that term is defined in the 1933 Act) may require compliance with some other exemption under the 1933 Act or the rules and regulations of the SEC promulgated thereunder; and (iii) neither the Company nor any other Person is under any obligation to register the Securities under the 1933 Act or any state securities laws or to comply with the terms and conditions of any exemption thereunder.

(h) Validity; Enforcement. This Agreement has been duly and validly authorized, executed and delivered on behalf of such Buyer and constitutes the legal, valid and binding obligations of such Buyer enforceable against such Buyer in accordance with their respective terms, except as such enforceability may be limited by general principles of equity or applicable bankruptcy, insolvency, reorganization, moratorium, liquidation and other similar laws relating to, or affecting generally, the enforcement of applicable creditors' rights and remedies.

(i) No Conflicts. The execution, delivery and performance by such Buyer of this Agreement and the consummation by such Buyer of the transactions contemplated hereby will not (i) result in a violation of the organizational documents of such Buyer, (ii) conflict with, or constitute a default (or an event which with notice or lapse of time or both would become a default) under, or give to others any rights of termination, amendment, acceleration or cancellation of, any agreement, indenture or instrument to which such Buyer is a party or (iii) result in a violation of any law, rule, regulation, order, judgment or decree (including federal and state securities laws) applicable to such Buyer, except in the case of clauses (ii) and (iii) above, for such conflicts, defaults, rights or violations which would not, individually or in the aggregate, reasonably be expected to have a material adverse effect on the ability of such Buyer to perform its obligations hereunder.

(j) Buyer's Principal Residence/Office. The address of Buyer's principal residence, if Buyer is a natural Person, or principal office, if Buyer is a non-natural Person, such as a corporation, limited liability company or other entity, is set forth in column (2) of the Schedule of Buyers.

(k) No Engagements. Such Buyer has not engaged any brokers, finders or agents, and the Company has not, nor will, incur, directly or indirectly, as a result of any action taken by such Buyer, any liability for brokerage or finders' fees or agents' commissions or any similar charges in connection with the transactions consummated under this Agreement. Neither such Buyer, nor any of Buyer's officers, directors, employees, agents, stockholders or partners has either directly or indirectly, including through a broker or finder: (i) engaged in or received any general solicitation or (ii) published or received any advertisement in connection with the offer or sale of the Securities.

3. REPRESENTATIONS AND WARRANTIES OF THE COMPANY.

The Company represents and warrants to each Buyer as of the date of this Agreement and as of the Closing relative to such Buyer that:

(a) Organization and Qualification. The Company is an entity duly organized and validly existing and in good standing under the laws of the jurisdiction in which it is formed, and has the requisite power and authorization to own its properties and to carry on its business as now being conducted and as presently proposed to be conducted. The Company is duly qualified as a foreign entity to do business and is in good standing in every jurisdiction in which its ownership of property or the nature of the business conducted by it makes such qualification necessary, except to the extent that the failure to be so qualified or be in good standing would not be reasonably expected to have a Material Adverse Effect. "**Material Adverse Effect**" means any material adverse effect on (i) the business, properties, assets, liabilities, operations (including results thereof) or condition (financial or otherwise) of the Company, either individually or taken as a whole, (ii) the transactions contemplated hereby or in any of the other Transaction Documents, or (iii) the authority or ability of the Company to perform any of its obligations under any of the Transaction Documents. The Company has no Subsidiaries. "**Subsidiaries**" means any Person in which the Company, directly or indirectly, (I) owns any of the outstanding capital stock or holds any equity or similar interest of such Person or (II) controls or operates all or any part of the business, operations or administration of such Person, and each of the foregoing, is individually referred to herein as a "**Subsidiary**." Additionally, to the extent that any Subsidiary is hereafter created, and the context of the provision of this Agreement would ordinarily include a Subsidiary, then the term "Company" will be deemed to include such Subsidiary.

(b) Authorization; Enforcement; Validity. The Company has the requisite power and authority to enter into and perform its obligations under this Agreement and the other Transaction Documents and to issue the Securities in accordance with the terms hereof and thereof. The execution and delivery of this Agreement and the other Transaction Documents by the Company, and the consummation by the Company of the transactions contemplated hereby and thereby (including, without limitation, the issuance of the Shares and the reservation for issuance and issuance of the Conversion Shares issuable upon conversion of the Shares) have been duly authorized by the Company's board of directors or other governing body, as applicable, and (other than the filing with the SEC of one or more Registration Statements in accordance with the requirements of the Registration Rights Agreement, a Form D with the SEC and any other filings as may be required by any state securities agencies) no further filing, consent or authorization is required by the Company, its respective boards of directors or the stockholders or other governing body. The Shares, when issued in accordance with the terms of this Agreement, will be validly issued, fully paid and non-assessable and free from all preemptive or similar rights, taxes, liens, charges and other encumbrances with respect to the issue thereof under the terms thereof. This Agreement has been, and the other Transaction Documents will be prior to the Initial Closing, duly executed and delivered by the Company, and each constitutes the legal, valid and binding obligations of the Company, enforceable against the Company in accordance with its respective terms, except as such enforceability may be limited by general principles of equity or applicable bankruptcy, insolvency, reorganization, moratorium, liquidation or similar laws relating to, or affecting generally, the enforcement of applicable creditors' rights and remedies and except as rights to indemnification and to contribution may be limited by federal or state securities law. "**Transaction Documents**" means, collectively, this Agreement, the Registration Rights Agreement, the Irrevocable Transfer Agent Instructions (as defined in the Registration Rights Agreement and each of the other agreements and instruments entered into or delivered by any of the parties hereto in connection with the consummation of the transactions contemplated hereby and thereby, as may be amended from time to time.

(c) Issuance of Conversion Shares. The Conversion Shares, when issued in accordance with the terms of the Certificate, will be validly issued, fully paid and non-assessable and free from all preemptive or similar rights, taxes, liens, charges and other encumbrances with respect to the issue thereof under the terms thereof, with the holders being entitled to all rights accorded to a holder of Common Stock. The Company shall have reserved from its duly authorized capital stock not less than one hundred ten percent (110%) of the maximum number of Conversion Shares issuable upon conversion of the Shares in accordance with the terms of the Certificate. Subject to the accuracy of the representations and warranties of the Buyers in this Agreement, the offer and issuance by the Company of the Securities is exempt from registration under the 1933 Act.

(d) No Conflicts. The execution, delivery and performance of the Transaction Documents by the Company and the consummation by the Company of the transactions contemplated hereby and thereby (including, without limitation, the issuance of the Shares, the Conversion Shares upon conversion of the Shares, the reservation for issuance of the Conversion Shares) will not (i) result in a violation of the Certificate of Incorporation (as defined below) (including, without limitation, the Certificate or any other certificate of designation contained therein) or other organizational documents of the Company, any capital stock of the Company or Bylaws (as defined below) of the Company, (ii) conflict with, or constitute a default (or an event which with notice or lapse of time or both would become a default) under, or give to others any rights of termination, amendment, acceleration or cancellation of, any agreement, indenture or instrument to which the Company is a party or (iii) result in a violation of any law, rule, regulation, order, judgment or decree (including, without limitation, foreign, federal and state securities laws and regulations) applicable to the Company or by which any property or asset of the Company is bound or affected except, in the case of clause (ii) or (iii) above, to the extent such violations that could not reasonably be expected to have a Material Adverse Effect.

(e) Consents. The Company is not required to obtain any consent from, authorization or order of, or make any filing or registration with (other than the filing with the SEC of one or more Registration Statements in accordance with the requirements of the Registration Rights Agreement, a Form D with the SEC and any other filings as may be required by any state securities agencies), any court, governmental agency or any regulatory or self-regulatory agency or any other Person in order for it to execute, deliver or perform any of its respective obligations under, or contemplated by, the Transaction Documents, in each case, in accordance with the terms hereof or thereof. All consents, authorizations, orders, filings and registrations which the Company is required to obtain at or prior to the Initial Closing have been obtained or made on or prior to the Initial Closing Date, and the Company is not aware of any facts or circumstances which might prevent the Company from obtaining or effecting any of the registration, application or filings contemplated by the Transaction Documents.

(f) Acknowledgment Regarding Buyer's Purchase of Securities. The Company acknowledges and agrees that each Buyer is acting solely in the capacity of an arm's length purchaser with respect to the Transaction Documents and the transactions contemplated hereby and thereby and that no Buyer is (i) an officer or director of the Company, (ii) an "affiliate" (as defined in Rule 144) of the Company or (iii) to its knowledge, a "beneficial owner" of more than ten percent (10%) of the shares of Common Stock (as defined for purposes of Rule 13d-3 of the Securities and Exchange Act of 1934 Act, as amended ("**1934 Act**")). The Company further acknowledges that no Buyer 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 hereby and thereby, and any advice given by a Buyer or any of its representatives or agents in connection with the Transaction Documents and the transactions contemplated hereby and thereby is merely incidental to such Buyer's purchase of the Securities. The Company further represents to each Buyer that the Company's decision to enter into the Transaction Documents to which it is a party has been based solely on the independent evaluation by the Company and its respective representatives.

(g) No General Solicitation; Placement Agent's Fees. Except as set forth in Schedule 3(g) attached to the Disclosure Letter, neither the Company nor any Person acting on its behalf, has engaged in any form of general solicitation or general advertising (within the meaning of Regulation D) in connection with the offer or sale of the Securities. The Company shall be responsible for the payment of any Placement Agent's fees, financial advisory fees, or brokers' commissions (other than for Persons engaged by any Buyer or its investment advisor) relating to or arising out of the transactions contemplated hereby. Other than the Placement Agent, to which a cash fee of 10% of the gross proceeds and a warrant equal to 10% of the Conversion Shares, the Company has not engaged any placement agent or other broker or dealer in connection with the offer or sale of the Securities.

(h) No Integrated Offering. None of the Company or, to the Company's knowledge, any of their affiliates, nor any Person acting on 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 require registration of the issuance of any of the Securities under the 1933 Act, whether through integration with prior offerings or otherwise, or cause this offering of the Securities to require approval of stockholders of the Company (other than any required approval of holders of a majority of the outstanding common stock of the Company received before the Initial Closing) under any applicable stockholder approval provisions. None of the Company, nor its affiliates nor any Person acting on their behalf will take any action or steps that would require registration of the issuance of any of the Securities under the 1933 Act or cause the offering of any of the Securities to be integrated with other offerings of securities of the Company.

(i) Dilutive Effect. The Company understands and acknowledges that the number of Conversion Shares may increase in certain circumstances. The Company further acknowledges that its obligation to issue the Conversion Shares upon conversion of the Shares in accordance with this Agreement and the Certificate is absolute and unconditional, regardless of the dilutive effect that such issuance may have on the ownership interests of other stockholders of the Company.

(j) Application of Takeover Protections; Rights Agreement. The Company and its board of directors have taken all necessary action, if any, in order to render inapplicable any control share acquisition, interested stockholder, business combination, poison pill (including, without limitation, any distribution under a rights agreement) or other similar anti-takeover provision under the Certificate of Incorporation, Bylaws or other organizational documents or the laws of the jurisdiction of its incorporation or otherwise which is or could become applicable to any Buyer as a result of the consummation of the transactions contemplated by this Agreement, including, without limitation, the Company's issuance of the Securities and any Buyer's ownership of the Securities. The Company and its board of directors have taken all necessary action, if any, in order to render inapplicable any stockholder rights plan or similar arrangement relating to accumulations of beneficial ownership of shares of Common Stock or a change in control of the Company.

(k) Placement Documents. The Private Placement Memorandum provided to the Buyers in connection with the sale of the Shares, at the time of the date thereon, as it may be amended from time to time, did not contain any untrue statement of a material fact or omit 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. No other information provided by or on behalf of the Company to any of the Buyers taken together with such Private Placement Memorandum contains any untrue statement of a material fact or omits to state any material fact necessary in order to make the statements therein not misleading, in the light of the circumstance under which they are or were made.

(l) Absence of Certain Changes. Since the date of the Company's Private Placement Memorandum, there has been no material adverse change and no material adverse development in the business, assets, liabilities, properties, operations (including results thereof), condition (financial or otherwise) or prospects of the Company. Since the date of the Company's Private Placement Memorandum, the Company has not (i) declared or paid any dividends (whether by cash, property or securities), (ii) sold any assets, individually or in the aggregate, outside of the ordinary course of business or (iii) made any capital expenditures, individually or in the aggregate, outside of the ordinary course of business. The Company has not taken any steps to seek protection pursuant to any law or statute relating to bankruptcy, insolvency, reorganization, receivership, liquidation or winding up, nor does the Company have any knowledge or reason to believe that any of their respective creditors intend to initiate involuntary bankruptcy proceedings or any actual knowledge of any fact which would reasonably lead a creditor to do so. The Company is not as of the date hereof, and after giving effect to the transactions contemplated hereby to occur at each Closing, will not be Insolvent (as defined below). "**Insolvent**" means (i) the present fair saleable value of the Company's assets is less than the amount required to pay the Company's total Indebtedness (as defined below), (ii) the Company is unable to pay its debts and liabilities, subordinated, contingent or otherwise, as such debts and liabilities become absolute and matured or (iii) the Company intends to incur or believe that it will incur debts that would be beyond its ability to pay as such debts mature.

(m) No Undisclosed Events, Liabilities, Developments or Circumstances. The Company has no knowledge of any event, liability, development or circumstance that has occurred or exists, or that is reasonably expected to occur or exist with respect to the Company or any of its business, properties, liabilities, operations (including results thereof) or condition (financial or otherwise), that (i) could have a material adverse effect on any Buyer's investment hereunder or (ii) could have a Material Adverse Effect.

(n) Conduct of Business; Regulatory Permits. The Company is not in violation of any term of or in default under its Certificate of Incorporation or Bylaws. The Company is not in violation of any judgment, decree or order or any statute, ordinance, rule or regulation applicable to the Company, and the Company will not conduct its business in violation of any of the foregoing, except in all cases for possible violations which could not, individually or in the aggregate, have a Material Adverse Effect. The Company possess all certificates, authorizations and permits issued by the appropriate regulatory authorities necessary to conduct their respective businesses, except where the failure to possess such certificates, authorizations or permits would not have, individually or in the aggregate, a Material Adverse Effect, and the Company has not received any notice of proceedings relating to the revocation or modification of any such certificate, authorization or permit.

(o) Foreign Corrupt Practices. The Company and, to its knowledge, none of its directors, officers, agents, employees or other Persons acting on behalf of the Company has, in the course of its actions for, or on behalf of, the Company (i) used any corporate funds for any unlawful contribution, gift, entertainment or other unlawful expenses relating to political activity; (ii) made any direct or indirect unlawful payment to any foreign or domestic government official or employee from corporate funds; (iii) violated or is in violation of any provision of the U.S. Foreign Corrupt Practices Act of 1977, as amended; or (iv) made any unlawful bribe, rebate, payoff, influence payment, kickback or other unlawful payment to any foreign or domestic government official or employee.

(p) Sarbanes-Oxley Act. The Company is in compliance with all applicable requirements of the Sarbanes-Oxley Act of 2002 and all applicable rules and regulations promulgated by the SEC thereunder.

(q) Transactions With Affiliates. Except as set forth on Schedule 3(q) attached to the Disclosure Letter and in the Private Placement Memorandum, none of the officers, directors, employees or affiliates of the Company is presently a party to any transaction with the Company (other than for ordinary course services as employees, officers or directors and immaterial transactions), 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, or otherwise requiring payments to or from any such officer, director, employee or affiliate or, to the knowledge of the Company, any corporation, partnership, trust or other Person in which any such officer, director, employee or affiliate has a substantial interest or is an employee, officer, director, trustee or partner.

(r) Equity Capitalization. As of the date hereof, the authorized capital stock of the Company consists solely of 50,000,000 shares of Common Stock, of which, 6,000,000 are issued and outstanding and 750,000 shares are reserved for issuance pursuant to Convertible Securities (as defined below) (other than the Shares), and 10,000,000 shares of Series A Preferred Stock, none of which are issued or outstanding as of the date of this Agreement. No approval of the shareholders is required for the issuance of the Shares or the Conversion Shares or any of the Convertible Securities. No shares of Common Stock are held in treasury. All of such outstanding shares are duly authorized and have been, or upon issuance will be, validly issued and are fully paid and non-assessable. 6,000,000 shares of the Company's issued and outstanding Common Stock on the date hereof are owned by Persons who are "affiliates" (as defined in Rule 405 of the 1933 Act and calculated based on the assumption that only officers, directors and holders of at least 10% of the Company's issued and outstanding Common Stock are "affiliates" without conceding that any such Persons are "affiliates" for purposes of federal securities laws) of the Company. To the Company's knowledge, no Person owns 10% or more of the Company's issued and outstanding shares of Common Stock (calculated based on the assumption that all Convertible Securities, whether or not presently exercisable or convertible, have been fully exercised or converted (as the case may be) taking account of any limitations on exercise or conversion (including "blockers") contained therein without conceding in the private placement documentation that such identified Person is a 10% stockholder for purposes of federal securities laws). (i) None of the Company's capital stock is subject to preemptive rights or any other similar rights or any liens or encumbrances suffered or permitted by the Company; (ii) there are no outstanding options, warrants, scrip, rights to subscribe to, calls or commitments of any character whatsoever relating to, or securities or rights convertible into, or exercisable or exchangeable for, any capital stock of the Company, or contracts, commitments, understandings or arrangements by which the Company is or may become bound to issue additional capital stock of the Company or options, warrants, scrip, rights to subscribe to, calls or commitments of any character whatsoever relating to, or securities or rights convertible into, or exercisable or exchangeable for, any capital stock of the Company (except pursuant to an agreement to issue common stock to the Placement Agent in connection with patent and intellectual property services); (iii) there are no outstanding debt securities, notes, credit agreements, credit facilities or other agreements, documents or instruments evidencing Indebtedness of the Company or by which the Company is or may become bound; (iv) there are no financing statements securing obligations in any amounts filed in connection with the Company; (v) there are no agreements or arrangements under which the Company is obligated to register the sale of any of their securities under the 1933 Act (except pursuant to the Registration Rights Agreement and a warrant issued to the Placement Agent); (vi) there are no outstanding securities or instruments of the Company which contain any redemption or similar provisions, and there are no contracts, commitments, understandings or arrangements by which the Company is or may become bound to redeem a security of the Company; (vii) there are no securities or instruments containing anti-dilution or similar provisions that will be triggered by the issuance of the Securities; and (viii) the Company has not issued any stock appreciation rights or "phantom stock" plans or agreements or any similar plan or agreement. The Company has furnished to the Buyers true, correct and complete copies of the Certificate and the Company's bylaws, as amended and as in effect on the date hereof (the "**Bylaws**"), and the terms of all securities convertible into, or exercisable or exchangeable for, shares of Common Stock and the material rights of the holders thereof in respect thereto. "**Convertible Securities**" means preferred stock, options, warrants or other securities directly or indirectly convertible into, exchangeable for or exercisable for Common Stock of the Company.

(s) Indebtedness and Other Contracts. The Company, except as disclosed on Schedule 3(s) attached to the Disclosure Letter or in the Private Placement Memorandum, (i) has no outstanding Indebtedness (as defined below), (ii) is not a party to any contract, agreement or instrument, the violation of which, or default under which, by the other party(ies) to such contract, agreement or instrument could reasonably be expected to result in a Material Adverse Effect, (iii) is not in violation of any term of, or in default under, any contract, agreement or instrument relating to any Indebtedness, except where such violations and defaults would not result, individually or in the aggregate, in a Material Adverse Effect, or (iv) is not a party to any contract, agreement or instrument relating to any Indebtedness, the performance of which, in the judgment of the Company's officers, has or is expected to have a Material Adverse Effect. "**Indebtedness**" of any Person means, without duplication (A) all indebtedness for borrowed money, (B) all obligations issued, undertaken or assumed as the deferred purchase price of property or services (including, without limitation, "capital leases" in accordance with generally accepted accounting principles) (other than trade payables entered into in the ordinary course of business), (C) all reimbursement or payment obligations with respect to letters of credit, surety bonds and other similar instruments, (D) all obligations evidenced by notes, bonds, debentures or similar instruments, including obligations so evidenced incurred in connection with the acquisition of property, assets or businesses, (E) all indebtedness created or arising under any conditional sale or other title retention agreement, or incurred as financing, in either case with respect to any property or assets acquired with the proceeds of such indebtedness (even though the rights and remedies of the seller or bank under such agreement in the event of default are limited to repossession or sale of such property), (F) all monetary obligations under any leasing or similar arrangement which, in connection with generally accepted accounting principles, consistently applied for the periods covered thereby, is classified as a capital lease, (G) all indebtedness referred to in clauses (A) through (F) above secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any mortgage, lien, pledge, charge, security interest or other encumbrance upon or in any property or assets (including accounts and contract rights) owned by any Person, even though the Person which owns such assets or property has not assumed or become liable for the payment of such indebtedness, and (H) all Contingent Obligations in respect of indebtedness or obligations of others of the kinds referred to in clauses (A) through (G) above. "**Contingent Obligation**" means, as to any Person, any direct or indirect liability, contingent or otherwise, of that Person with respect to any indebtedness, lease, dividend or other obligation of another Person if the primary purpose or intent of the Person incurring such liability, or the primary effect thereof, is to provide assurance to the obligee of such liability that such liability will be paid or discharged, or that any agreements relating thereto will be complied with, or that the holders of such liability will be protected (in whole or in part) against loss with respect thereto. "**Person**" means an individual, a limited liability company, a partnership, a joint venture, a corporation, a trust, an unincorporated organization, any other entity and a government or any department or agency thereof.

(t) Absence of Litigation. Except as set forth on Schedule 3(t) attached to the Disclosure Letter, there is no action, suit, proceeding, inquiry or investigation before or by any court, public board, government agency, self-regulatory organization or body pending or, to the knowledge of the Company, threatened against or affecting the Company, the Common Stock or any of the Company's officers or directors which is outside of the ordinary course of business or individually or in the aggregate material to the Company. There has not been, and to the knowledge of the Company, there is not pending or contemplated, any investigation by the SEC or other United States governmental agency involving the Company or any current or former director or officer of the Company.

(u) [Reserved].

(v) Employee Relations. The Company is not a party to any collective bargaining agreement or employs any member of a union. The Company believes that its relations with their respective employees are good. No executive officer (as defined in Rule 501(f) promulgated under the 1933 Act) or other key employee of the Company has notified the Company that such officer intends to leave the Company or otherwise terminate such officer's employment with the Company. To the Company's knowledge, no executive officer or other key employee of the Company is, or is now expected to be, in violation of any material term of any employment contract, confidentiality, disclosure or proprietary information agreement, non-competition agreement, or any other contract or agreement or any restrictive covenant, and the continued employment of each such executive officer or other key employee (as the case may be) does not subject the Company to any liability with respect to any of the foregoing matters. The Company is in compliance with all federal, state, local and foreign laws and regulations respecting labor, employment and employment practices and benefits, terms and conditions of employment and wages and hours, except where failure to be in compliance would not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

(w) Title. The Company has good and marketable title to all personal property owned by it which is material to the business of the Company, in each case, free and clear of all liens, encumbrances and defects except such as do not materially affect the value of such property and do not interfere with the use made and proposed to be made of such property by the Company.

(x) Intellectual Property Rights. To the Company's knowledge, the Company owns or possesses adequate rights or licenses to use all trademarks, trade names, service marks, service mark registrations, service names, patents, patent rights, copyrights, original works, inventions, licenses, approvals, governmental authorizations, trade secrets and other intellectual property rights and all applications and registrations therefor ("**Intellectual Property Rights**") necessary to conduct is business as now conducted and as presently proposed to be conducted. None of the Company's Intellectual Property Rights have expired, terminated or been abandoned, or are expected to expire, terminate or be abandoned, within three years from the date of this Agreement. The Company has no knowledge of any infringement by the Company of Intellectual Property Rights of others. There is no claim, action or proceeding being made or brought, or to the knowledge of the Company, being threatened, against the Company regarding their Intellectual Property Rights. The Company is not aware of any facts or circumstances which might give rise to any of the foregoing infringements or claims, actions or proceedings. The Company has taken reasonable security measures to protect the secrecy, confidentiality and value of all of its Intellectual Property Rights.

(y) Environmental Laws. The Company (i) is in compliance with all Environmental Laws (as defined below), (ii) has received all permits, licenses or other approvals required of them under applicable Environmental Laws to conduct its business, and (iii) is in compliance with all terms and conditions of any such permit, license or approval where, in each of the foregoing clauses (i), (ii) and (iii), the failure to so comply could be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect. "**Environmental Laws**" means all federal, state, local or foreign laws relating to pollution or protection of human health or the environment (including, without limitation, ambient air, surface water, groundwater, land surface or subsurface strata), including, without limitation, 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.

(z) Tax Status. The Company (i) has timely made or filed all foreign, federal and state income and all other tax returns, reports and declarations required by any jurisdiction to which it is subject, (ii) has timely 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, except those being contested in good faith and (iii) has set aside on its books provision reasonably adequate for the payment of all 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 know of no basis for any such claim. The Company is not operated in such a manner as to qualify as a passive foreign investment company, as defined in Section 1297 of the U.S. Internal Revenue Code of 1986, as amended.

(aa) Internal Accounting and Disclosure Controls. The Company maintains internal control over financial reporting (as such term is defined in Rule 13a-15(f) under the 1934 Act) that is effective to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes, including 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 to maintain asset and liability accountability, (iii) access to assets or incurrence of liabilities is permitted only in accordance with management's general or specific authorization, and (iv) the recorded accountability for assets and liabilities is compared with the existing assets and liabilities at reasonable intervals and appropriate action is taken with respect to any difference. The Company has not received any notice or correspondence from any accountant or other Person relating to any potential material weakness or significant deficiency in any part of the internal controls over financial reporting of the Company.

(bb) Off Balance Sheet Arrangements. There is no transaction, arrangement, or other relationship involving the Company in respect of an off-balance sheet entity that would be required to be disclosed by the Company in a 1934 Act filing or that otherwise could be reasonably likely to have a Material Adverse Effect.

(cc) Investment Company Status. The Company is not, and upon consummation of the sale of the Securities will not be, an "investment company," or, to the knowledge of the Company, an affiliate of an "investment company," a company controlled by an "investment company" or an "affiliated person" of, or "promoter" or "principal underwriter" for, an "investment company" as such terms are defined in the Investment Company Act of 1940, as amended.

(dd) 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 any Buyer's request.

(ee) Transfer Taxes. On each Closing Date, all stock transfer or other taxes (other than income or similar taxes) which are required to be paid in connection with the issuance, sale and transfer of the Securities to be sold to each Buyer hereunder will be, or will have been, fully paid or provided for by the Company, and all laws imposing such taxes will be or will have been complied with.

(ff) Bank Holding Company Act. The Company is not 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, to its knowledge, any of its 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 equity that is subject to the BHCA and to regulation by the Federal Reserve. Neither the Company nor, to its knowledge, any of its 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.

(gg) Shell Company Status. The Company is not, and has never been, an issuer identified in, or subject to, Rule 144(i).

(hh) Public Utility Holding Act. The Company is not a "holding company," or an "affiliate" of a "holding company," as such terms are defined in the Public Utility Holding Act of 2005.

(ii) Federal Power Act. The Company is not subject to regulation as a "public utility" under the Federal Power Act, as amended.

(jj) No Additional Agreements. The Company does not have any agreement or understanding with any Buyer with respect to the transactions contemplated by the Transaction Documents other than as specified in the Transaction Documents.

(kk) Real Property. The Company holds good title to all real property, leases in real property, or other interests in real property stated as owned or held by the Company (the "**Real Property**"). The Real Property is free and clear of all mortgages, defects, claims, liens, pledges, charges, taxes, rights of first refusal, encumbrances, security interests and other encumbrances (collectively "**Encumbrances**") and is not subject to any rights of way, building use restrictions, exceptions, variances, reservations, or limitations of any nature except for (i) liens for current taxes not yet due, and (ii) zoning laws and other land use restrictions that do not impair the present or anticipated use of the property subject thereto. Any Real Property held under lease by the Company is held under valid, subsisting and enforceable leases with such exceptions as are not material and do not interfere with the use made and proposed to be made of such property and buildings by the Company.

(ll) Fixtures and Equipment. The Company has good title to, or a valid leasehold interest in, the tangible personal property, equipment, improvements, fixtures, and other personal property and appurtenances that are used by the Company in connection with the conduct of its business (the "**Fixtures and Equipment**"). The Fixtures and Equipment are structurally sound, are in good operating condition and repair, are adequate for the uses to which they are being put, are not in need of maintenance or repairs except for ordinary, routine maintenance and repairs and are sufficient for the conduct of the Company's business in the manner as conducted prior to each Closing. The Company owns all of its Fixtures and Equipment free and clear of all Encumbrances except for (i) liens for current taxes not yet due, and (ii) zoning laws and other land use restrictions that do not impair the present or anticipated use of the property subject thereto.

(mm) Illegal or Unauthorized Payments; Political Contributions. The Company nor, to the best of the Company's knowledge (after reasonable inquiry of its officers and directors), any of the officers, directors, employees, agents or other representatives of the Company or any other business entity or enterprise with which the Company is or has been affiliated or associated, has, directly or indirectly, made or authorized any payment, contribution or gift of money, property, or services, whether or not in contravention of applicable law, (i) as a kickback or bribe to any Person or (ii) to any political organization, or the holder of or any aspirant to any elective or appointive public office except for personal political contributions not involving the direct or indirect use of funds of the Company.

(nn) Money Laundering. The Company is in compliance with, and has not previously violated, the USA Patriot Act of 2001 and all other applicable U.S. and non-U.S. anti-money laundering laws and regulations, including, without limitation, the laws, regulations and Executive Orders and sanctions programs administered by the U.S. Office of Foreign Assets Control, including, without limitation, (i) Executive Order 13224 of September 23, 2001 entitled, "Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism" (66 Fed. Reg. 49079 (2001)); and (ii) any regulations contained in 31 CFR, Subtitle B, Chapter V.

(oo) Disclosure. The Company understands and confirms that each of the Buyers will rely on the foregoing representations in effecting the transactions consummated hereunder. All disclosure provided to the Buyers regarding the Company, its business and the transactions contemplated hereby, including the private placement memorandum, the Disclosure Letter and the schedules to this Agreement, furnished by or on behalf of the Company 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 Buyer makes or has made any representations or warranties with respect to the transactions contemplated hereby other than those specifically set forth in Section 2.

4. COVENANTS.

(a) Best Efforts. Each Buyer shall use its best efforts to timely satisfy each of the conditions to be satisfied by it as provided in Section 6 of this Agreement. The Company shall use its best efforts to timely satisfy each of the conditions to be satisfied by it as provided in Section 7 of this Agreement.

(b) Form D and Blue Sky. The Company shall file a Form D with respect to the Securities as required under Regulation D and to provide a copy thereof to the Placement Agent promptly after such filing. The Company shall, on or before the Initial Closing Date, take such action as the Company shall reasonably determine is necessary in order to obtain an exemption for, or to, qualify the Securities for sale to the Placement Agent at each Closing pursuant to this Agreement under applicable securities or "Blue Sky" laws of the states of the United States (or to obtain an exemption from such qualification), and shall provide evidence of any such action so taken to the Buyers on or prior to each Closing Date. Without limiting any other obligation of the Company under this Agreement, the Company shall timely make all filings and reports relating to the offer and sale of the Securities required in connection with the consummation of the transactions consummated hereunder under all applicable securities laws (including, without limitation, all applicable federal securities laws and all applicable "Blue Sky" laws), and the Company shall comply with all applicable federal, foreign, state and local laws, statutes, rules, regulations and the like relating to the offering and sale of the Securities to the Buyers.

(c) Reporting Status. After the date the Company becomes subject to the periodic reporting requirements under Sections 13 or 15(d) of the 1934 Act, as amended from time to time, together with the regulations promulgated thereunder (a "**Reporting Company**"), and until the date on which the Buyers shall have sold all of the Registrable Securities (such period, to end in any event, whether or not such securities have been sold, not later than five years after such date, the "**Reporting Period**"), the Company shall use commercially reasonable efforts to timely file all reports required to be filed with the SEC pursuant to the 1934 Act, and the Company shall not terminate its status as an issuer required to file reports under the 1934 Act even if the 1934 Act or the rules and regulations thereunder would no longer require or otherwise permit such termination unless such termination is approved by the holders of a majority stockholders of the voting power of the Company, or unless no Buyer has demand registration rights under the Registration Rights Agreement or unless no Buyer is a holder of record of Conversion Shares (collectively, the "**Termination Conditions**").

(d) Use of Proceeds. The Company shall use the proceeds from the sale of the Shares for general corporate purposes as set forth in the Private Placement Memorandum; provided, however, that the Company shall not use any of the proceeds to make or repay loans to any officer or director of the Company.

(e) [Reserved].

(f) Listing. In connection with the Company becoming a Reporting Company, the Company shall in connection with any proper demand for registration of Registrable Securities under the Registration Rights Agreement (if the same has not previously occurred) promptly secure the listing or designation for quotation (as the case may be) of all of the Registrable Securities upon each national securities exchange and automated quotation system, if any, upon which the Common Stock is then listed or designated for quotation (as the case may be) (subject to official notice of issuance) and shall thereafter maintain such listing or designation for quotation (as the case may be) of all Registrable Securities from time to time issuable under the terms of the Transaction Documents on such national securities exchange or automated quotation system unless one of the Termination Conditions has occurred. During any period that the Common Stock is listed or designated, the Company shall use commercially reasonable efforts to maintain the Common Stock's listing or designation for quotation (as the case may be) on The New York Stock Exchange, the NYSE MKT, the Nasdaq Global Select Market, the Nasdaq Global Market or the Nasdaq Capital Market (each, an "**Eligible Market**"). During the Reporting Period, the Company shall use commercially reasonable efforts not to take any action which could be reasonably expected to prevent a listing or result in the delisting or suspension of the Common Stock from an Eligible Market. The Company shall pay all fees and expenses in connection with satisfying its obligations under this Section 4(f).

(g) Fees. The Company shall be responsible for the payment of any placement agent's fees, financial advisory fees, or broker's commissions (other than for Persons engaged by any Buyer) relating to or arising out of the transactions contemplated hereby and resulting from the retention by the Company of any placement agent, financial advisor or broker (including, without limitation, any fees payable to the Placement Agent, who is the Company's sole placement agent in connection with the transactions contemplated by this Agreement). Except where Buyer has breached Section 2(k) hereof, the Company shall pay, and hold each Buyer harmless against, any liability, loss or expense (including, without limitation, reasonable attorneys' fees and out-of-pocket expenses) arising in connection with any claim relating to any such payment. Except as otherwise set forth in the Transaction Documents, each party to this Agreement shall bear its own expenses in connection with the sale of the Securities to the Buyers.

(h) Pledge of Securities. Notwithstanding anything to the contrary contained in this Agreement, the Company acknowledges and agrees that the Securities may be pledged by a Buyer in connection with a bona fide margin agreement or other bona fide loan or financing arrangement that is secured by the Securities. The pledge of Securities shall not be deemed to be a transfer, sale or assignment of the Securities hereunder, and no Buyer making a pledge of Securities shall be required to provide the Company with any notice thereof or otherwise make any delivery to the Company pursuant to this Agreement or any other Transaction Document. The Company hereby agrees to execute and deliver such documentation as a holder of the Securities may reasonably request in connection with a pledge of the Securities to such pledgee by a Buyer.

(i) Reservation of Shares. The Company shall take all action necessary to at all times have authorized, and reserved for the purpose of issuance, no less than one hundred ten percent (110%) of the maximum number of Conversion Shares issuable upon conversion of the Shares.

(j) Conduct of Business. So long as any of the Securities are held by the Buyers and their successors in interest and assigns, the business of the Company shall not be conducted in violation of any law, ordinance or regulation of any governmental entity, except where such violations would not result, either individually or in the aggregate, in a Material Adverse Effect.

(k) Subsequent Placements. So long as the Shares are outstanding, the Company shall, without the prior written consent of the Required Buyers (as defined below), be prohibited from effecting or entering into an agreement to effect any offering or placement of equity or equity linked securities of the Company, including without limitation any shares of Series A Preferred Stock that remain authorized and unissued following the termination of the offering pursuant to this Agreement ("**Subsequent Placement**"); provided that the term "**Subsequent Placement**" shall not include (i) a firm commitment underwritten initial public offering through a registered broker-dealer (an "**IPO**"), (ii) with the prior written consent of Liquid Venture Partners, LLC, an affiliate of the Placement Agent ("**LVP**"), a placement (or series of placements), based on a pre-issuance valuation of the Company of at least $50 million, in which in the aggregate gross proceeds to the Company do not exceed $2 million, or (iii)) the issuance of equity or equity linked securities, other than Series A Preferred Stock, based on a pre-issuance valuation of the Company of at least $50 million, to one or more of the Company's strategic partners and/or licensors in consideration of non-cash assets or license rights from the strategic partner or licensor, which issuances in the aggregate shall not exceed securities worth $5 million. All shares of Common Stock issued or issuable pursuant to the securities of the Company issued under this Section 4(k) shall be subject to the 12 month lock-up set forth in Section 4(u).

(l) Change of Control. Prior to an IPO, the Company may not effect a Change of Control without the prior written consent of the Required Buyers. "**Change in Control**" means (x) the acquisition of the Company by another entity by means of any transaction (including, without limitation, any stock acquisition, reorganization, merger or consolidation) that contemplates an enterprise value of the Company of less than $60 million, or (y) a sale of all or substantially all of the assets of the Company for an aggregate purchase price of less than $60 million (including, for purposes of this section, the sale or exclusive license of intellectual property rights which, in the aggregate, constitutes substantially all of the corporation's material intellectual property assets).

(m) Variable Rate Transaction. Notwithstanding anything in this Agreement to the contrary, until the later of none of the Shares not having been converted to Conversion Shares or three years after the Company becomes a Reporting Company, the Company shall be prohibited from effecting or entering into any Subsequent Placement involving a Variable Rate Transaction. "**Variable Rate Transaction**" means a transaction in which the Company (i) issues or sells any Convertible Securities either (A) at a conversion, exercise 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 Convertible 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 Convertible Securities 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, other than pursuant to a customary "weighted average" anti-dilution provision or (ii) enters into any agreement (including, without limitation, an "equity line of credit" or an "at the market offering") whereby the Company may sell securities at a future determined price (other than standard and customary "preemptive" or "participation" rights). Each Buyer 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. Notwithstanding the foregoing, the offer or sale of the Series A Preferred Stock shall not be deemed to be a Variable Rate Transaction.

(n) Passive Foreign Investment Company. For the period ending on the third year anniversary after the Company becomes a Reporting Company, the Company shall conduct its business in such a manner as will ensure that the Company will not be deemed to constitute a passive foreign investment company within the meaning of Section 1297 of the U.S. Internal Revenue Code of 1986, as amended.

(o) Restriction on Redemption and Cash Dividends. So long as any Shares are outstanding and have not been converted to Conversion Shares, the Company shall not, directly or indirectly, redeem, or declare or pay any cash dividend or distribution on, any securities of the Company without the prior express written consent of the Required Buyers.

(p) Corporate Existence. So long as any Shares are outstanding and have not been converted to Conversion Shares, the Company shall maintain its corporate existence and shall not sell, assign or transfer all or substantially all of the Company's assets.

(q) Board of Directors; Size. So long as any Shares are outstanding and have not been converted to Conversion Shares, the Company will, within one hundred twenty (120) days of the Effective Date, have a board of directors and committees thereof that conform to the requirements of Nasdaq Listing Rule 5605 applicable to smaller reporting companies. So long as the Shares are outstanding, LVP shall have the right to advise and consent on all board of director nominees, provided however, such consent shall not be unreasonably withheld. Subject to any legal rights under Delaware law of the shareholders, the board of directors of the Company and committees thereof shall conform to Nasdaq Listing Rule 5605 and the foregoing sentence for so long as any Shares are outstanding and have not been converted to Conversion Shares, except as approved by LVP, which approval may be withheld in its discretion and subject to reasonable conditions, including the requirement of additional independent directors.

(r) Intellectual Property Strategy. Within three months of the Effective Date, the Company will adopt an intellectual property strategy reasonably acceptable to LVP, and provide a written summary of the strategy to the Placement Agent.

(s) Incentive Equity. The Company has adopted an incentive stock or equity award plan (the "Plan"), the Plan provides for awards of shares equal to 5,000,000 shares of Common Stock. As of the Effective Date, 2,350,000 shares of Common Stock remain eligible for issuance under the Plan for future issuance (the "**Reserved Shares**"). The Reserved Shares shall not be in excess of fifteen percent (15%) of the number of fully diluted shares of Common Stock up to and including the date of an IPO. The Plan will not be amended to increase the number of shares subject thereto until the Company becomes a Reporting Company or upon the approval of LVP.

(t) Independent Accountants. Within three months after the date of initial issuance of the Shares, the Company will engage independent certified public accountants, which firm is actively registered with the PCAOB, to perform an audit of the financial statements that would be necessary and sufficient to meet the filing requirements of a registration statement for the registration of securities of the Company either for issuance by the Company or resale of the Conversion Shares, which audit will be completed no later than nine (9) months after the date of the initial issuance of the Shares.

(u) Lock Up. In connection with any initial public offering, the Company will use its best efforts to obtain lock-up agreements from all officers, directors and employees of the Company and the Company's parent, Imprimis Pharmaceuticals, Inc., any direct or beneficial owner of five percent (5%) or more of the Common Stock (excluding any Conversion Shares for purposes of calculating the five percent (5%)), and NSC and any beneficial holders of shares of Common Stock who are affiliates of NSC in respect of shares of Common Stock issued under any agreement for the provision of patent and intellectual property services and issuable or issued upon exercise of any warrants issued in connection with the offering by the Company of the Shares (the "**Financing Shares**") (for clarity, the lock up for NSC and its affiliates will not apply to any other shares of Common Stock, including any shares of Common Stock acquired in the public markets); the foregoing lock up to extend for a period of 12 months after the effective date of the registration statement for such initial public offering.

(v) Investor Market Stand-Off. In connection with the initial public offering of the Company's Common Stock, if any, each Buyer hereby agrees that, for one hundred eighty (180) days from the effective date of such registration (the "**Restricted Period**"), it will not (i) offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, lend or otherwise transfer or dispose of any shares of Common Stock or any securities convertible into or exercisable or exchangeable for Common Stock, whether now owned or hereafter acquired or with respect to which such Buyer has or hereafter acquires the power of disposition; or (ii) enter into any swap or other agreement, arrangement or transaction that transfers to another, in whole or in part, directly or indirectly, any of the economic consequence of ownership of any Common Stock or any securities convertible into or exercisable or exchangeable for any Common Stock, whether any transaction described in clause (i) or (ii) is to be settled by delivery of Common Stock, other securities, in cash or otherwise, without the prior written consent of the managing or lead underwriter of such offering. In order to enforce the restrictions agreed to by Buyer in this Section 4(v), the Company may impose stop-transfer instructions with respect to any security acquired under or subject to this Agreement until the end of the Restricted Period. The Company's underwriters shall be third-party beneficiaries of the restrictions set forth in this Section 4(v).

(w) IPO Commitment. The Company shall, no later than nine (9) months following the Initial Closing Date, subject to extension upon the prior written approval of the Required Holders, file with the SEC a registration statement on Form S-1 (or any successor from thereto) to register and sell Common Stock in an IPO and complete the IPO by December 31, 2018, subject to extension upon the prior written approval of the Required Holders.

5. REGISTER; TRANSFER AGENT INSTRUCTIONS; LEGEND.

(a) Register. The Company shall maintain at its principal executive offices (or such other office or agency of the Company as it may designate by notice to each holder of Securities), a register for the Shares and, if issued, the Conversion Shares in which the Company shall record the name and address of the Person in whose name the Shares and/or Conversion Shares have been issued (including the name and address of each transferee), the aggregate number of Shares or Conversion Shares held by such Person, and any tax related information required to be maintained. The Company shall keep the register open and available at all times during business hours for inspection of any Buyer or its legal representatives.

(b) Transfer Agent Instructions. If a Buyer effects a sale, assignment or transfer of the Conversion Shares, the Company shall permit the transfer and shall promptly instruct its transfer agent to issue one or more certificates or credit shares to the applicable balance accounts at the Depository Trust Company ("**DTC**") in such name and in such denominations as specified by such Buyer to effect such sale, transfer or assignment. In the event that such sale, assignment or transfer involves Conversion Shares sold, assigned or transferred pursuant to an effective registration statement or in compliance with Rule 144, the transfer agent shall issue such shares to such Buyer, assignee or transferee (as the case may be) without any restrictive legend in accordance with Section 5(d) below. The Company acknowledges that a breach by it of its obligations under this Section 5(b) will cause irreparable harm to each Buyer. Accordingly, the Company acknowledges that the remedy at law for a breach of its obligations under this Section 5(b) will be inadequate and agrees, in the event of a breach or threatened breach by the Company of the provisions of this Section 5(b), that each Buyer shall be entitled, in addition to all other available remedies, to an order and/or injunction restraining any breach and requiring immediate issuance and transfer, without the necessity of showing economic loss and without any bond or other security being required. The Company shall cause its counsel to issue the legal opinion referred to in the Irrevocable Transfer Agent Instructions to the Company's transfer agent on each Effective Date (as defined and provided in the Registration Rights Agreement), provided that the applicable Buyer(s) or its or their representatives and/or brokers have provided the documentation to counsel reasonably necessary or required for the basis of such legal opinion. Any fees (with respect to the transfer agent, counsel to the Company or otherwise) associated with the issuance of such opinion or the removal of any legends on any of the Securities shall be borne by the Company.

(c) Legends. Each Buyer understands that the Securities have been issued (or will be issued in the case of the Conversion Shares) pursuant to an exemption from registration or qualification under the 1933 Act and applicable state securities laws, and except as set forth below, the Securities shall bear any legend as required by the "Blue Sky" laws of any state and a restrictive legend in substantially the following form (and a stop-transfer order may be placed against transfer of such stock certificates):

> [NEITHER THE ISSUANCE AND SALE OF THE SECURITIES REPRESENTED BY THIS CERTIFICATE NOR THE SECURITIES INTO WHICH THESE SECURITIES ARE CONVERTIBLE HAVE BEEN]/[THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN] REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR APPLICABLE STATE SECURITIES LAWS. THE SECURITIES MAY NOT BE OFFERED FOR SALE, SOLD, TRANSFERRED OR ASSIGNED (I) IN THE ABSENCE OF (A) AN EFFECTIVE REGISTRATION STATEMENT FOR THE SECURITIES UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR (B) AN OPINION OF COUNSEL TO THE HOLDER (IF REQUESTED BY THE COMPANY), IN A FORM REASONABLY ACCEPTABLE TO THE COMPANY, THAT REGISTRATION IS NOT REQUIRED UNDER SAID ACT OR (II) UNLESS SOLD OR ELIGIBLE TO BE SOLD PURSUANT TO RULE 144 OR RULE 144A UNDER SAID ACT. NOTWITHSTANDING THE FOREGOING, THE SECURITIES MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN OR FINANCING ARRANGEMENT SECURED BY THE SECURITIES.

(d) Removal of Legends. Certificates evidencing Securities shall not be required to contain the legend set forth in Section 5(c) above or any other legend (i) while a registration statement (including a Registration Statement) covering the resale of such Securities is effective under the 1933 Act, (ii) following any sale of such Securities pursuant to Rule 144 (assuming the transferor is not an affiliate of the Company), (iii) if such Securities are eligible to be sold, assigned or transferred under Rule 144 (provided that a Buyer provides the Company with reasonable assurances that such Securities are eligible and will remain for sale, assignment or transfer under Rule 144 which shall not include an opinion of counsel), (iv) in connection with a sale, assignment or other transfer (other than under Rule 144), provided that such Buyer provides the Company with an opinion of counsel to such Buyer, in a generally acceptable form, to the effect that such sale, assignment or transfer of the Securities may be made and thereafter made without registration under the applicable requirements of the 1933 Act, or (v) if such legend is not required under applicable requirements of the 1933 Act (including, without limitation, controlling judicial interpretations and pronouncements issued by the SEC, provided that Buyer provides the Company with a reasonable description of the authority Buyer is relying upon). If the Company is a Reporting Company and a legend is not required pursuant to the foregoing, the Company, at its expense, shall no later than two (2) Business Days following the delivery by a Buyer to the Company or the transfer agent (with notice to the Company) of a legended certificate representing such Securities (endorsed or with stock powers attached, signatures guaranteed, and otherwise in form necessary to affect the reissuance and/or transfer, if applicable), together with any other deliveries from such Buyer as may be required above in this Section 5(d), as directed by such Buyer, either: (A) provided that the Company's transfer agent is participating in the DTC Fast Automated Securities Transfer Program and such Securities are Conversion Shares, credit the aggregate number of shares of Common Stock to which such Buyer shall be entitled to such Buyer's or its designee's balance account with the DTC through its Deposit/Withdrawal at Custodian system or (B) if the Company's transfer agent is not participating in the DTC Fast Automated Securities Transfer Program, issue and dispatch for delivery (via reputable overnight courier) to such Buyer, a certificate representing such Securities that is free from all restrictive and other legends, registered in the name of such Buyer or its designee (the date by which such credit is so required to be made to the balance account of such Buyer's or such Buyer's nominee with DTC or such certificate is required to be delivered to such Buyer pursuant to the foregoing is referred to herein as the "**Required Delivery Date**").

(e) Failure to Timely Deliver; Buy-In. If the Company is a Reporting Company and the Company improperly fails to (i) issue and dispatch for delivery (or cause to be so dispatched) to a Buyer by the Required Delivery Date a certificate representing the Securities so delivered to the Company by such Buyer that is free from all restrictive and other legends or (ii) credit the balance account of such Buyer's or such Buyer's nominee with DTC for such number of Conversion Shares so delivered to the Company, and if on or after the business day immediately following the Required Delivery Date such Buyer (or any other Person in respect, or on behalf, of such Buyer) purchases (in an open market transaction or otherwise) shares of Common Stock to deliver in satisfaction of a sale by such Buyer of all or any portion of the number of shares of Common Stock, or a sale of a number of shares of Common Stock equal to all or any portion of the number of shares of Common Stock, that such Buyer so anticipated receiving from the Company without any restrictive legend, then, in addition to all other remedies available to such Buyer, the Company shall, within five (5) Business Days after such Buyer's request and in such Buyer's sole discretion, either (x) pay cash to such Buyer in an amount equal to such Buyer's total purchase price (including brokerage commissions and other out-of-pocket expenses, if any) for the shares of Common Stock so purchased (including brokerage commissions and other out-of-pocket expenses, if any) (the "**Buy-In Price**"), at which point the Company's obligation to so deliver such certificate or credit such Buyer's balance account shall terminate and such shares shall be cancelled, or (y) promptly honor its obligation to so deliver to such Buyer a certificate or certificates or credit such Buyer's DTC account representing such number of shares of Common Stock that would have been so delivered if the Company timely complied with its obligations hereunder and pay cash to such Buyer in an amount equal to the excess (if any) of the Buy-In Price over the product of (A) such number of shares of Conversion Shares that the Company was required to deliver to such Buyer by the Required Delivery Date multiplied by (B) the lowest closing sale price of the Common Stock on any Business Day during the period commencing on the date of the delivery by such Buyer to the Company of the applicable Conversion Shares and ending on the date of such delivery and payment under this clause (y).

6. CONDITIONS TO THE COMPANY'S OBLIGATION TO SELL.

(a) The obligation of the Company hereunder to issue and sell the Shares to each Buyer at the Closing is subject to the satisfaction, at or before the Closing Date, of each of the following conditions, provided that these conditions are for the Company's sole benefit and may be waived by the Company at any time in its sole discretion by providing each Buyer with prior written notice thereof:

(i) Such Buyer shall have executed each of the other Transaction Documents to which it is a party and a Rule 506 "Bad Actor" Questionnaire, and delivered the same to the Company.

(ii) Such Buyer and each other Buyer shall have delivered to the Escrow Agent on behalf of the Company the Purchase Price for the Shares being purchased by such Buyer at the Closing by check in collected funds through the Escrow Agent or wire transfer of immediately available funds pursuant to the wire instructions provided by the Company.

(iii) The representations and warranties of such Buyer shall be true and correct in all material respects as of the date when made and as of the Closing Date as though originally made at that time (except for representations and warranties that speak as of a specific date, which shall be true and correct as of such date), and such Buyer shall have performed, satisfied and complied in all material respects with the covenants, agreements and conditions required by this Agreement to be performed, satisfied or complied with by such Buyer at or prior to the Closing Date.

(iv) A minimum of 5,000,000 Shares, for the minimum gross proceeds of $15,000,000, are purchased by the Buyers at the Initial Closing.

7. CONDITIONS TO EACH BUYER'S OBLIGATION TO PURCHASE.

(a) The obligation of each Buyer hereunder to purchase its Shares at the Closing is subject to the satisfaction, at or before the Closing Date, of each of the following conditions, provided that these conditions are for each Buyer's sole benefit and may be waived by such Buyer at any time in its sole discretion by providing the Company with prior written notice thereof:

(i) The Company shall have duly executed and delivered to such Buyer each of the Transaction Documents to which it is a party and the Company shall have duly executed and delivered to such Buyer either (A) a certificate registered in such Buyer's name (representing the number of Shares as is set forth opposite such Buyer's name in column (3) on the Schedule of Buyers) or (B) an irrevocable instruction letter to the Company's transfer agent to issue a certificate registered in such Buyer's name (representing the number of Shares as is set forth opposite such Buyer's name in column (3) on the Schedule of Buyers) and deliver such certificate to the Buyer as soon thereafter as possible.

(ii) Buyer shall have received an opinion of Golenbock Eiseman Assor Bell & Peskoe, the Company's counsel, dated the date of the issuance of the Shares to such Buyer, stating that the Company is duly incorporated, the Transaction Documents have been duly authorized, that the Shares are be duly authorized, fully paid and non-assessable and that the Conversion Shares, if and when issued will be duly authorized, fully paid and non-assessable, which opinion may be subject to such assumptions and conditions are normally set forth in opinions of legal counsel in respect of such matters.

(iii) The Company shall have delivered to such Buyer a certificate evidencing the formation and good standing of the Company in its jurisdiction of formation issued by the Secretary of State (or comparable office) of such jurisdiction of formation as of a date within ten (10) days of the Closing Date.

(iv) The Company shall have delivered to such Buyer a certificate or other reasonably acceptable evidence evidencing the Company's qualification as a foreign corporation and good standing issued by the Secretary of State (or comparable office) of each jurisdiction in which the Company conducts business and is required to so qualify, as of a date within ten (10) days of the Closing Date.

(v) The Company shall have delivered to such Buyer a certified copy of the Certificate of Incorporation as certified by the Secretary of State of the Company's jurisdiction of incorporation within ten (10) days of the Closing Date.

(vi) The Company shall have delivered to such Buyer a certificate, in the form acceptable to such Buyer, executed by the Secretary of the Company dated as of the Closing Date, as to (i) the resolutions consistent with Section 3(b) as adopted by the Company's board of directors in a form reasonably acceptable to such Buyer, (ii) the Certificate of Incorporation of the Company and (iii) the Bylaws of the Company as in effect at the Closing.

(vii) Each and every representation and warranty of the Company shall be true and correct as of the applicable Closing Date in all material respects (except for representations and warranties that include an express materiality qualification, which shall be true and correct in all respects and, except further, representations and warranties that speak as of a specific date, which shall be true and correct as of such date) and the Company shall have performed, satisfied and complied in all material respects with the covenants, agreements and conditions required to be performed, satisfied or complied with by the Company at or prior to the Closing Date (except for covenants, agreements and conditions that include an express materiality qualification, which shall performed, satisfied or complied in all respects. Such Buyer shall have received a certificate, executed by the President of the Company, dated as of the Closing Date, to the foregoing effect and as to such other matters as may be reasonably requested by such Buyer in the form reasonably acceptable to such Buyer.

(viii) The Company shall have obtained all governmental, regulatory or third party consents and approvals, if any, necessary for the sale of the Securities.

(ix) No statute, rule, regulation, executive order, decree, ruling or injunction shall have been enacted, entered, promulgated or endorsed by any court or governmental authority of competent jurisdiction that prohibits the consummation of any of the transactions contemplated by the Transaction Documents.

(x) Since the date of execution of this Agreement, no event or series of events shall have occurred that reasonably would have or result in a Material Adverse Effect.

(xi) The Company shall not have amended, modified, waived compliance with or terminated, revoked or rescinded in any manner or respect (and the Company shall not have taken any action, or permitted any action to be taken (whether through the Company's inaction or otherwise), that has a similar effect to any of the foregoing) any provision of any of material agreements and all of such agreements shall be in full force and effect.

(xii) The Company shall have delivered to such Buyer a letter dated as of the Closing Date, in a form reasonably acceptable to such Buyer, executed by the Company (the "**Disclosure Letter**").

(xiii) The Company shall have delivered to such Buyer such other documents, instruments or certificates relating to the transactions contemplated by this Agreement as such Buyer or its counsel may reasonably request.

(xiv) A minimum of 5,000,000 Shares, for the minimum gross proceeds of $15,000,000, are purchased by the Buyers at the Initial Closing.

8. TERMINATION.

(a) This Agreement may be terminated prior to the Initial Closing:

(i) by written agreement of the Buyers and the Company; or

(ii) by either the Company or a Buyer (as to itself but no other Buyer) upon written notice to the other, if the Initial Closing shall not have taken place by 4:30 p.m. Eastern time on June 19, 2017, subject to extension to August 10, 2017 pursuant to the mutual agreement of the Company and the Placement Agent; provided, that the right to terminate this Agreement under this Section 8(a)(ii) shall not be available to any party whose failure to comply with its obligations under this Agreement has been the cause of or resulted in the failure of the Closing to occur on or before such time.

(b) No termination of this Agreement shall affect any obligation of the Company under this Agreement to reimburse such Buyer for the expenses described in Section 4(g) above. Nothing contained in this Section 8 shall be deemed to release any party from any liability for any breach by such party of the terms and provisions of this Agreement or the other Transaction Documents or to impair the right of any party to compel specific performance by any other party of its obligations under this Agreement or the other Transaction Documents.

9. MISCELLANEOUS.

(a) Governing Law; Jurisdiction; Jury Trial. All questions concerning the construction, validity, enforcement and interpretation of this Agreement shall be governed by the internal laws of the State of New York, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of New York or any other jurisdictions) that would cause the application of the laws of any jurisdictions other than the State 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, 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 brought in an inconvenient forum or that the venue of such suit, action or proceeding is improper. Each party 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 to such party at the address for such 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 manner permitted by law. Nothing contained herein shall be deemed or operate to preclude any Buyer from bringing suit or taking other legal action against the Company in any other jurisdiction to collect on the Company's obligations to such Buyer or to enforce a judgment or other court ruling in favor of such Buyer. **EACH PARTY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE TO, AND AGREES NOT TO REQUEST, A JURY TRIAL FOR THE ADJUDICATION OF ANY DISPUTE HEREUNDER OR IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT OR ANY TRANSACTION CONTEMPLATED HEREBY.**

(b) Counterparts. This Agreement may be executed in two or more identical counterparts, all of which shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to the other party. In the event that any signature is delivered by facsimile transmission or by an e-mail which contains a portable document format (.pdf) file of an executed signature page, such signature page 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 signature page were an original thereof.

(c) Headings; Gender. The headings of this Agreement are for convenience of reference and shall not form part of, or affect the interpretation of, this Agreement. Unless the context clearly indicates otherwise, each pronoun herein shall be deemed to include the masculine, feminine, neuter, singular and plural forms thereof. The terms "including," "includes," "include" and words of like import shall be construed broadly as if followed by the words "without limitation." The terms "herein," "hereunder," "hereof" and words of like import refer to this entire Agreement instead of just the provision in which they are found.

(d) Severability. If any provision of this Agreement is prohibited by law or otherwise determined to be invalid or unenforceable by a court of competent jurisdiction, the provision that would otherwise be prohibited, invalid or unenforceable shall be deemed amended to apply to the broadest extent that it would be valid and enforceable, and the invalidity or unenforceability of such provision shall not affect the validity of the remaining provisions of this Agreement so long as this Agreement as so modified continues to express, without material change, the original intentions of the parties as to the subject matter hereof and the prohibited nature, invalidity or unenforceability of the provision(s) in question does not substantially impair the respective expectations or reciprocal obligations of the parties or the practical realization of the benefits that would otherwise be conferred upon the parties. The parties will endeavor in good faith negotiations to replace the prohibited, invalid or unenforceable provision(s) with a valid provision(s), the effect of which comes as close as possible to that of the prohibited, invalid or unenforceable provision(s). Notwithstanding anything to the contrary contained in this Agreement or any other Transaction Document (and without implication that the following is required or applicable), it is the intention of the parties that in no event shall amounts and value paid by the Company, or payable to or received by any of the Buyers, under the Transaction Documents (including without limitation, any amounts that would be characterized as "interest" under applicable law) exceed amounts permitted under any applicable law. Accordingly, if any obligation to pay, payment made to any Buyer, or collection by any Buyer pursuant the Transaction Documents is finally judicially determined to be contrary to any such applicable law, such obligation to pay, payment or collection shall be deemed to have been made by mutual mistake of such Buyer, and the Company and such amount shall be deemed to have been adjusted with retroactive effect to the maximum amount or rate of interest, as the case may be, as would not be so prohibited by the applicable law. Such adjustment shall be effected, to the extent necessary, by reducing or refunding, at the option of such Buyer, the amount of interest or any other amounts which would constitute unlawful amounts required to be paid or actually paid to such Buyer under the Transaction Documents. For greater certainty, to the extent that any interest, charges, fees, expenses or other amounts required to be paid to or received by such Buyer under any of the Transaction Documents or related thereto are held to be within the meaning of "interest" or another applicable term to otherwise be violative of applicable law, such amounts shall be pro-rated over the period of time to which they relate.

(e) Entire Agreement; Amendments. This Agreement, the other Transaction Documents and the schedules and exhibits attached hereto and thereto and the instruments referenced herein and therein supersede all other prior oral or written agreements between the Buyers, the Company, their affiliates and Persons acting on their behalf solely with respect to the matters contained herein and therein, and this Agreement, the other Transaction Documents, the schedules and exhibits attached hereto and thereto and the instruments referenced herein and therein contain the entire understanding of the parties solely with respect to the matters covered herein and therein; provided, however, nothing contained in this Agreement or any other Transaction Document shall (or shall be deemed to) (i) have any effect on any agreements any Buyer has entered into with, or any instruments any Buyer has received from, the Company prior to the date hereof with respect to any prior investment made by such Buyer in the Company or (ii) waive, alter, modify or amend in any respect any obligations of the Company, or any rights of or benefits to any Buyer or any other Person, in any agreement entered into prior to the date hereof between or among the Company and any Buyer, or any instruments any Buyer received from the Company prior to the date hereof, and all such agreements and instruments shall continue in full force and effect. Except as specifically set forth herein or therein, neither the Company nor any Buyer makes any representation, warranty, covenant or undertaking with respect to such matters. For clarification purposes, the Recitals are part of this Agreement. No provision of this Agreement may be amended other than by an instrument in writing signed by the Company and the Required Buyers, and any amendment to any provision of this Agreement made in conformity with the provisions of this Section 9(e) shall be binding on all Buyers and holders of Securities, as applicable, provided that no such amendment shall be effective to the extent that it (1) applies to less than all of the holders of the Securities then outstanding or (2) imposes any obligation or liability on any Buyer without such Buyer's prior written consent (which may be granted or withheld in such Buyer's sole discretion). No waiver shall be effective unless it is in writing and signed by an authorized representative of the waiving party, provided that the Required Buyers may waive any provision of this Agreement, and any waiver of any provision of this Agreement made in conformity with the provisions of this Section 9(e) shall be binding on all Buyers and holders of Securities, as applicable, provided that no such waiver shall be effective to the extent that it (1) applies to less than all of the holders of the Securities then outstanding (unless a party gives a waiver as to itself only) or (2) imposes any obligation or liability on any Buyer without such Buyer's prior written consent (which may be granted or withheld in such Buyer's sole discretion). No consideration shall be offered or paid to any Person to amend or consent to a waiver or modification of any provision of any of the Transaction Documents unless the same consideration also is offered to all of the parties to the Transaction Documents who are holders of Shares. The Company has not, directly or indirectly, made any agreements with any Buyers relating to the terms or conditions of the transactions contemplated by the Transaction Documents except as set forth in the Transaction Documents. Without limiting the foregoing, the Company confirms that, except as set forth in this Agreement, no Buyer has made any commitment or promise or has any other obligation to provide any financing to the Company or otherwise. As a material inducement for each Buyer to enter into this Agreement, the Company expressly acknowledges and agrees that no due diligence or other investigation or inquiry conducted by a Buyer, any of its advisors or any of its representatives shall affect such Buyer's right to rely on, or shall modify or qualify in any manner or be an exception to any of, the Company's representations and warranties contained in this Agreement or any other Transaction Document. "**Required Buyers**" means Buyers having Purchase Prices in the aggregate that are at least equal to a majority of the aggregate Purchase Prices for all Buyers.

(f) Notices. Any notices, consents, waivers or other communications required or permitted to be given under the terms of this Agreement must be in writing and will be deemed to have been delivered: (i) upon receipt, if delivered personally; (ii) when sent, if sent by facsimile (provided confirmation of transmission is mechanically or electronically generated and kept on file by the sending party); (iii) when sent, if sent by e-mail (provided that such sent e-mail is kept on file (whether electronically or otherwise) by the sending party and the sending party does not receive an automatically generated message from the recipient's e-mail server that such e-mail could not be delivered to such recipient) and (iv) if sent by overnight courier service, one (1) Business Day after deposit with an overnight courier service with next day delivery specified, in each case, properly addressed to the party to receive the same. The addresses, facsimile numbers and e-mail addresses for such communications shall be:

If to the Company:

Eton Pharmaceuticals, Inc.
12264 El Camino Real, Suite 350
San Diego, CA 92130
Facsimile: (858) 345-1743
E-mail: *mark@imprimispharma.com*
Attention: Mark L. Baum

with a copy (for informational purposes only) to:

Golenbock Eiseman Assor Bell & Peskoe LLP
711 Third Avenue, 17th Floor
New York, NY 10017
Facsimile: (212) 754-0330
E-mail: *ahudders@golenbock.com*
cvandemark@golenbock.com
Attention: Andrew D. Hudders, Esq.
Carl Van Demark, Esq.

If to a Buyer, to its address, facsimile number or e-mail address set forth on the Schedule of Buyers, with copies to such Buyer's representatives as set forth on the Schedule of Buyers,

with a copy (for informational purposes only) to:

Greenberg Traurig, LLP
3161 Michelson Drive, Suite 1000
Irvine, CA 92612
Facsimile: (949) 732-6501
E-mail: DonahueD@gtlaw.com
Attention: Daniel K. Donahue, Esq.

or to such other address, facsimile number or e-mail address and/or to the attention of such other Person as the recipient party has specified by written notice given to each other party five (5) days prior to the effectiveness of such change. Written confirmation of receipt (A) given by the recipient of such notice, consent, waiver or other communication, (B) mechanically or electronically generated by the sender's facsimile machine containing the time, date and recipient facsimile number or (C) provided by an overnight courier service shall be rebuttable evidence of personal service, receipt by facsimile or receipt from an overnight courier service in accordance with clause (i), (ii) or (iv) above, respectively. A copy of the e-mail transmission containing the time, date and recipient e-mail address shall be rebuttable evidence of receipt by e-mail in accordance with clause (iii) above.

(g) Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns, including, as contemplated below, any assignee of any of the Securities. The Company shall not assign this Agreement or any rights or obligations hereunder without the prior written consent of the Required Buyers, except in the event of a Change in Control. A Buyer may assign some or all of its rights hereunder in connection with any transfer of any of its Securities without the consent of the Company, in which event such assignee shall be deemed to be a Buyer hereunder with respect to such assigned rights.

(h) No Third Party Beneficiaries. This Agreement is intended for the benefit of the parties hereto and their respective permitted successors and assigns, and is not for the benefit of, nor may any provision hereof be enforced by, any other Person, other than the Indemnitees referred to in Section 9(k).

(i) Survival. The representations, warranties, agreements and covenants shall survive the Closing and shall expire on the conversion of the Shares into Conversion Shares. Each Buyer shall be responsible only for its own representations, warranties, agreements and covenants hereunder.

(j) Further Assurances. Each party shall do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as any other party may reasonably request in order to carry out the intent and accomplish the purposes of this Agreement and the consummation of the transactions contemplated hereby.

(k) Indemnification. In consideration of each Buyer's execution and delivery of the Transaction Documents and acquiring the Securities thereunder and in addition to all of the Company's other obligations under the Transaction Documents, the Company shall defend, protect, indemnify and hold harmless each Buyer and each holder of any Securities and all of their stockholders, partners, members, officers, directors, employees and direct or indirect investors and any of the foregoing Persons' agents or other representatives (including, without limitation, those retained in connection with the transactions contemplated by this Agreement) (collectively, the "**Indemnitees**") from and against any and all actions, causes of action, suits, claims, losses, costs, penalties, fees, liabilities and damages, and expenses in connection therewith (irrespective of whether any such Indemnitee is a party to the action for which indemnification hereunder is sought), and including reasonable attorneys' fees and disbursements for one (1) counsel to all the Buyers (the "**Indemnified Liabilities**"), incurred by any Indemnitee as a result of, or arising out of, or relating to (a) any misrepresentation or breach of any representation or warranty made by the Company in any of the Transaction Documents, (b) any breach of any covenant, agreement or obligation of the Company contained in any of the Transaction Documents or (c) any cause of action, suit, proceeding or claim brought or made against such Indemnitee by a third party (including for these purposes a derivative action brought on behalf of the Company) or which otherwise involves such Indemnitee that arises out of or results from (i) the execution, delivery, performance or successful enforcement of any of the Transaction Documents, (ii) any transaction financed or to be financed in whole or in part, directly or indirectly, with the proceeds of the issuance of the Securities, or (iii) the status of such Buyer or holder of the Securities either as an investor in the Company pursuant to the transactions contemplated by the Transaction Documents or as a party to this Agreement (including, without limitation, as a party in interest or otherwise in any action or proceeding for injunctive or other equitable relief). To the extent that the foregoing undertaking by the Company may be unenforceable for any reason, the Company shall make the maximum contribution to the payment and satisfaction of each of the Indemnified Liabilities which is permissible under applicable law. Except as otherwise set forth herein, the mechanics and procedures with respect to the rights and obligations under this Section 9(k) shall be the same as those set forth in Section 6 of the Registration Rights Agreement. No Indemnitee shall be entitled to indemnification under this Section 9(k) to the extent an Indemnified Liability arises out of the gross negligence or willful misconduct of such Indemnitee.

(l) Construction. The language used in this Agreement will be deemed to be the language chosen by the parties to express their mutual intent, and no rules of strict construction will be applied against any party. No specific representation or warranty shall limit the generality or applicability of a more general representation or warranty. Each and every reference to share prices, shares of Common Stock and any other numbers in this Agreement that relate to the Common Stock shall be automatically adjusted for stock dividends, stock splits, stock combinations and other similar transactions that occur with respect to the Common Stock after the date of this Agreement.

(m) Remedies. Each Person having any rights under any provision of this Agreement shall have all rights and remedies set forth in the Transaction Documents and all rights and remedies which such holders have been granted at any time under any other agreement or contract and all of the rights which such holders have under any law. Any Person having any rights under any provision of this Agreement shall be entitled to enforce such rights specifically (without posting a bond or other security), to recover damages by reason of any breach of any provision of this Agreement and to exercise all other rights granted by law. Furthermore, the Company recognizes that in the event that it fails to perform, observe, or discharge any or all of its obligations under the Transaction Documents, any remedy at law may prove to be inadequate relief to the Buyers. The Company therefore agrees that the Buyers shall be entitled to seek specific performance and/or temporary, preliminary and permanent injunctive or other equitable relief from any court of competent jurisdiction in any such case without the necessity of proving actual damages and without posting a bond or other security.

(n) Withdrawal Right. Notwithstanding anything to the contrary contained in (and without limiting any similar provisions of) the Transaction Documents, whenever any Buyer 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 Buyer 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.

(o) Payment Set Aside; Currency. To the extent that the Company makes a payment or payments to any Buyer hereunder or pursuant to any of the other Transaction Documents or any of the Buyers enforce or exercise their rights hereunder or 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, foreign, 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. Unless otherwise expressly indicated, all dollar amounts referred to in this Agreement and the other Transaction Documents are in United States Dollars ("**U.S. Dollars**"), and all amounts owing under this Agreement and all other Transaction Documents shall be paid in U.S. Dollars. All amounts denominated in other currencies (if any) shall be converted into the U.S. Dollar equivalent amount in accordance with the Exchange Rate on the date of calculation. "**Exchange Rate**" means, in relation to any amount of currency to be converted into U.S. Dollars pursuant to this Agreement, the U.S. Dollar exchange rate as published in *The Wall Street Journal* on the relevant date of calculation.

(p) Independent Nature of Buyers' Obligations and Rights. The obligations of each Buyer under the Transaction Documents are several and not joint with the obligations of any other Buyer, and no Buyer shall be responsible in any way for the performance of the obligations of any other Buyer under any Transaction Document. Nothing contained herein or in any other Transaction Document, and no action taken by any Buyer pursuant hereto or thereto, shall be deemed to constitute the Buyers as, and the Company acknowledges that the Buyers do not so constitute, a partnership, an association, a joint venture or any other kind of group or entity, or create a presumption that the Buyers are in any way acting in concert or as a group or entity with respect to such obligations or the transactions contemplated by the Transaction Documents or any matters, and the Company acknowledges that the Buyers are not acting in concert or as a group, and the Company shall not assert any such claim, with respect to such obligations or the transactions contemplated by the Transaction Documents. The decision of each Buyer to purchase Securities pursuant to the Transaction Documents has been made by such Buyer independently of any other Buyer. Each Buyer acknowledges that no other Buyer has acted as agent for such Buyer in connection with such Buyer making its investment hereunder and that no other Buyer will be acting as agent of such Buyer in connection with monitoring such Buyer's investment in the Securities or enforcing its rights under the Transaction Documents. The Company and each Buyer confirms that each Buyer has independently participated with the Company in the negotiation of the transaction contemplated hereby with the advice of its own counsel and advisors. Each Buyer shall be entitled to independently protect and enforce its rights, including, without limitation, the rights arising out of this Agreement or out of any other Transaction Documents, and it shall not be necessary for any other Buyer to be joined as an additional party in any proceeding for such purpose. The use of a single agreement to effectuate the purchase and sale of the Securities contemplated hereby was solely in the control of the Company, not the action or decision of any Buyer, and was done solely for the convenience of the Company and not because it was required or requested to do so by any Buyer. 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 Buyer, solely, and not between the Company and the Buyers collectively and not between and among the Buyers.

[*Signature pages follow*]

IN WITNESS WHEREOF, Buyer and the Company have caused their respective signature page to this Agreement to be duly executed as of the date first written above.

COMPANY:

ETON PHARMACEUTICALS, INC.

By: */s/ Mark L. Baum*
Name: Mark L. Baum
Title: Executive Director

[*Buyer Signature Page Follows*]

BUYER SIGNATURE PAGE FOR SECURITIES PURCHASE AGREEMENT

ETON PHARMACEUTICALS, INC.

[*Buyer's signature to be provided by way of its execution of the Omnibus Signature Page to the Agent's "Omnibus Signature Page and Investor Questionnaire" with respect to this Offering.*]

BUYER ADDENDUM RE ESCROW

(*this information is required*)

By signing above the above signed Buyer hereby certifies and confirms that: In the event that the Escrow Agent makes a disbursement to the above signed Buyer, which may or may not occur, such Buyer hereby confirms that such disbursement is to be made by wire transfer using the following wire transfer instructions. The Escrow Agent, the Company and the Placement Agent can rely on this confirmation and I will not revoke this confirmation unless I confirm to the Company on this form replacement wire transfer instructions at least two Business Days before revoking this confirmation. The Company may instruct the Escrow Agent to, or the Escrow Agent may on its own, withhold any such disbursement until the Company is reasonably satisfied and the Escrow Agent is satisfied in its sole discretion with the instructions and procedures for making such disbursement.

Bank Name: _____

Bank Address: _____

ABA Number: _____

Account Number: _____

Account Name: _____

Reference: _____

EXHIBIT A

SCHEDULE OF BUYERS

(1) Buyer	(2) Address, E-mail and/or Facsimile Number	(3) Number of Shares	(4) Purchase Price	(5) Legal Representative's Address and Facsimile Number

EXHIBIT B

CERTIFICATE

EXHIBIT C

REGISTRATION RIGHTS AGREEMENT

EXHIBIT D

ESCROW AGREEMENT

Exhibit 10.2

REGISTRATION RIGHTS AGREEMENT FOR INVESTORS

THIS REGISTRATION RIGHTS AGREEMENT (this "Agreement") is made as of June 19, 2017,[1] by and among Eton Pharmaceuticals, Inc., a Delaware corporation ("Company"), and the persons listed on Schedule A hereto, referred to individually as the "Stockholder" and collectively as the "Stockholders".

A. In connection with the Securities Purchase Agreement by and among the parties hereto, dated June 19, 2017 (the "Securities Purchase Agreement"), the Company has agreed, upon the terms and subject to the conditions of the Securities Purchase Agreement, to issue and sell to each Investor Shares (as defined in the Securities Purchase Agreement), which will be convertible into Conversion Shares (as defined in the Securities Purchase Agreement) in accordance with the terms of the Series A Preferred Stock, par value $0.001 (the "Series A Preferred Stock"), set forth in the Company's Certificate of Incorporation, including the Certificate of Designations of Preferences and Rights of Series A Convertible Preferred Stock (the "Certificate").

B. To induce the Stockholders to consummate the transactions contemplated by the Securities Purchase Agreement, the Company has agreed to provide certain registration rights under the Securities Act, and applicable state securities laws to the Stockholders, and their assignees or successors in interest, certain rights to provide for the registration for resale of the Conversion Shares by means of a Registration Statement under the Securities Act, pursuant to the terms of this Agreement. Such Conversion Shares acquired by the Stockholders and their assignees or successors in interest, are referred to collectively as the "Registrable Securities".

C. Unless otherwise provided in this Agreement, capitalized terms used herein shall have the respective meanings set forth in Section 13 hereof.

NOW, THEREFORE, in consideration of the above premises and the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company and Stockholder hereby agree as follows:

1. Registration.

(a) Piggyback Registrations Rights. If, at any time after the Company shall become subject to the periodic reporting obligations (a "Reporting Company") under the Securities and Exchange Act of 1934, as amended (the "1934 Act") through the date that is five years after the date the Company becomes a Reporting Company, there is not an effective Registration Statement covering the Registrable Securities, and the Company shall determine to prepare and file with the Commission a Registration Statement relating to an offering for its own account or the account of others under the Securities Act of any of its equity securities (other than on Form S-4 or Form S-8, each as promulgated under the Securities Act, or their then equivalent relating to equity securities to be issued solely in connection with any acquisition of any entity or business or equity securities issuable in connection with stock option or other employee benefit plans), then the Company shall send to the Stockholders a written notice of such determination at least twenty (20) days prior to the filing of any such Registration Statement and shall, include in such Registration Statement all Registrable Securities requested by any Stockholder hereunder to be included in the registration within ten (10) days after the Company sends such notice to the Stockholders (the "Piggyback Shares") for resale and offer on a continuous basis pursuant to Rule 415; provided, that (i) if, at any time after giving written notice of its intention to register any securities and prior to the effective date of the Registration Statement filed in connection with such registration, the Company determines for any reason not to proceed with such registration, the Company will be relieved of its obligation to register any Registrable Securities in connection with such registration, (ii) in case of a determination by the Company to delay registration of its securities, the Company will be permitted to delay the registration of Registrable Securities for the same period as the delay in registering such other securities, (iii) each Stockholder is subject to confidentiality obligations with respect to any information gained in this process or any other material non-public information he, she or it obtains, (iv) each Stockholder or assignee or successor in interest is subject to all applicable laws relating to insider trading or similar restrictions; and (v) if all of the Registrable Securities of the Stockholders cannot be so included due to Commission Comments or Underwriter Cutbacks, then the Company may reduce, in accordance with the provisions of Section 1(c) hereof, the number of securities covered by such Registration Statement to the maximum number which would enable the Company to conduct such offering in accordance with the provisions of Rule 415.

[1] The Agreement will be dated as of the Initial Closing Date.

(b) Initial Registration Statement. At the election of each Stockholder, the Company shall be required to include up to all Piggyback Shares held by such Stockholder for resale and offer on a continuous basis pursuant to Rule 415 in the first Registration Statement filed after the date that it becomes a Reporting Company (the "Initial Registration Statement"); *provided, however,* that if all of the Registrable Securities of the Stockholders cannot be so included due to Commission Comments or Underwriter Cutbacks, then the Company may reduce, in accordance with the provisions of Section 1(c) hereof, the number of securities covered by the Initial Registration Statement to the maximum number which would enable the Company to conduct such offering in accordance with the provisions of Rule 415.

(c) Cutback Provisions. In the event all of the Registrable Securities cannot be or are not included in a Registration Statement due to Commission Comments or Underwriter Cutbacks, the Company and the Stockholders agree that securities shall be removed from such Registration Statement in the following order until no further removal is required by Commission Comments or Underwriter Cutbacks:

(i) First, any securities held by any former employee, consultant or affiliate of the Company shall be removed, pro rata based on the number of securities being registered for such former employees, consultants or affiliates held by all of the former employees of the Company and any of their affiliates and successors in interest, whether pursuant to agreement or otherwise and any other person with any registration rights outstanding on the date hereof;

(ii) Second, the securities held by National Securities Corporation ("National Securities") and its members and affiliates, if any, obtained solely by reason of providing services to the Company, which are being registered pursuant to any registration rights agreement or otherwise (for clarity, any securities held by National Securities or its members or affiliates which were acquired upon payment of a purchase price in cash or property will not be subject to this provision (c)(ii)); and

(iii) Third, the Registrable Securities held by the Stockholders that are requested to be included in the Registration Statement shall be removed, pro rata based on the number of Registrable Shares held by each Stockholder in comparison to the number of Registrable Securities held by all Stockholders who have requested to include any Registrable Securities in the Registration Statement.

(d) Mandatory Registrations. In the event all of the Piggyback Shares of the Stockholders are not included in a Registration Statement due to Commission Comments or Underwriter Cutbacks, the Company shall prepare and file an additional Registration Statement (the "Follow-up Registration Statement") with the Commission within sixty (60) days following the effectiveness of the previously filed Registration Statement; *provided, however*, that the time period for filing the Follow-up Registration shall be extended to the extent that the Commission publishes written Commission Guidance or the Company receives written Commission Guidance which provides for a longer period before a Follow-up Registration Statement may be filed. The Follow-up Registration Statement shall cover the resale of all of the Registrable Securities that were excluded from any previously filed Registration Statement. In the event that all of the Piggyback Shares have not been registered in a Registration Statement after the Follow-up Registration Statement has been declared effective, the Company shall use commercially reasonable efforts thereafter to register any remaining unregistered Registrable Securities, subject to the provisions of Section 1(e) hereof.

(e) Filing; Content. The Company will use its commercially reasonable efforts to cause each Registration Statement pursuant to which any Registrable Securities are included, including the Initial or Follow-up Registration Statement, to contain the Plan of Distribution substantially similar to that attached hereto as Schedule B. The Company shall use its commercially reasonable efforts to cause any Registration Statement filed under this Section 1, including the Initial and Follow-up Registration Statement, to be declared effective under the Securities Act as promptly as practicable after the filing thereof and shall keep such Registration Statement continuously effective under the Securities Act until the earlier of (i) one year after its Effective Date (provided, however, the one year period shall be extended for any Grace Period), (ii) such time as all of the Registrable Securities covered by such Registration Statement have been publicly sold by the Stockholders, or (iii) such time as all of the Registrable Securities covered by such Registration Statement may be sold by the Stockholders pursuant to Rule 144 without regard to both the volume limitations for sales as provided in Rule 144 and the limitations for such sales provided in Rule 144(i), if applicable, as determined by the counsel to the Company pursuant to a written opinion letter to such effect, addressed and acceptable to the Company's transfer agent and the affected Stockholder ("Effectiveness Period"). By 5:00 p.m. (New York City time) on the business day immediately following the Effective Date of a Registration Statement, the Company shall file with the Commission in accordance with Rule 424 under the Securities Act the final Prospectus to be used in connection with sales pursuant to such Registration Statement (whether or not such filing is technically required under such Rule).

(f) Termination of Registration Rights. The registration rights afforded to the Stockholders under this Section 1 shall terminate on the earliest date when all Registrable Securities of the Stockholder either: (i) have been publicly sold by the Stockholder pursuant to a Registration Statement, (ii) have been covered by an effective Registration Statement which has been effective for an aggregate period of sixteen (16) months (whether or not consecutive), provided, however, the time period shall be calculated so as to exclude any Grace Period, or (iii) may be sold by the Stockholder pursuant to Rule 144 without regard to both the volume limitations for sales as provided in Rule 144 and the limitations for such sales provided in Rule 144(i), if applicable, as determined by the counsel to the Company pursuant to a written opinion letter to such effect, addressed and acceptable to the Company's transfer agent and the affected Stockholder.

2. Demand Registration Rights.

(a) Demand Right. Commencing on the date that is one hundred eighty (180) days after the Company becomes a Reporting Company, the Stockholders as a group representing at least 50% of the Registrable Securities (a "Requesting Group") shall have a separate one-time right, by written notice to the Company, signed by such Stockholders (the "Demand Notice"), to request the Company to register for resale all Registrable Securities included by the Requesting Group in the Demand Notice (the "Demand Shares") under and in accordance with the provisions of the Securities Act by filing with the Commission a Registration Statement covering the resale of such Demand Shares (the "Demand Registration Statement"). A copy of the Demand Notice also shall be provided by the Company to each of the other Stockholders who will have fifteen (15) days to notify the Company in writing to include their Registrable Securities as part of the Demand Shares, the failure of which, however, shall not in any way affect the rights of the Requesting Group pursuant to this Section 2(a). The Demand Registration Statement required hereunder shall be on any form of registration statement then available for the registration of the Registrable Securities, as selected by the Company in accordance with applicable law and regulation. The Company will use its commercially reasonable efforts to file the Demand Registration Statement within forty-five (45) days of the receipt of the Demand Notice, provided if the Demand Notice is given within the forty-five (45) days after the prior fiscal year end, then the Company will use its reasonably commercial efforts to file the Demand Registration Statement within ninety (90) days of the fiscal year end of the Company. The Company shall use its commercially reasonable efforts to cause the Demand Registration Statement to be declared effective under the Securities Act as promptly as practicable after the filing thereof and to keep the Demand Registration Statement continuously effective under the Securities Act during the Effectiveness Period.

(b) Inclusion of Other Registrable Shares and Cutback Provisions. If as a result of Commission Comments, not all shares are included that are desired to be included in a Registration Statement for the Demand Shares, the provisions of Section 1(c) shall apply, subject to the Demand Priority (as defined below) of the Requesting Group. Pursuant to the piggyback registration rights granted under this Agreement, the Company may include the Registrable Shares of the other Stockholders which will be subject to the provision of Section 1(c) hereof, except that under Section 1(c)(iii), there will be no cutback of the Registrable Securities of the Requesting Group until the Stockholders of Piggyback Shares and the shares of any other person exercising piggyback rights under any other registration rights agreement (except for National Securities and their current and former affiliates, which shall have the priority established in Section 1(c)) have been removed, and thereafter if any further Registrable Securities have to be removed then those of the Requesting Group will be removed pro rata (the "Demand Priority"). Notwithstanding the foregoing, if any other securities of any person other than the Stockholders or the Requesting Group or National Securities and their current and former affiliates are included on the Demand Registration Statement, such securities will be removed, if required pursuant to Commission Comments, after removal of the securities indicated in Section 1(c)(i) and before the securities indicated in Section 1(c)(ii), as such persons decide among themselves, and if there is no agreement at to such removal provided to the Company within a reasonable time, time being of the essence, then all the such securities will be removed.

(c) Termination of Demand Registration Rights. The registration rights afforded to each Stockholder under this Section 2 shall terminate on the earliest date when all Registrable Securities of the Stockholder either: (i) have been publicly sold by the Stockholder pursuant to a Registration Statement, or (ii) may be sold by the Stockholder pursuant to Rule 144 without regard to both the volume limitations for sales as provided in Rule 144 and the limitations for such sales provided in Rule 144(i), if applicable, as determined by the counsel to the Company pursuant to a written opinion letter to such effect, addressed and acceptable to the Company's transfer agent and the affected Holder in its reasonable discretion.

3. Registration Procedures. Whenever any Registrable Securities are to be registered pursuant to this Agreement, the Company shall use its commercially reasonable efforts to effect the registration and sale of such Registrable Securities in accordance with the intended method of disposition thereof, and pursuant thereto the Company shall have the following obligations:

(a) The Company shall prepare and file with the Commission a Registration Statement with respect to such Registrable Securities and use its commercially reasonable efforts to cause such Registration Statement to become effective.

(b) The Company shall prepare and file with the Commission such amendments (including post-effective amendments) and supplements to a Registration Statement and the Prospectus used in connection with such Registration Statement, which Prospectus is to be filed pursuant to Rule 424 promulgated under the Securities Act, as may be necessary to keep such Registration Statement effective at all times during the Effectiveness Period, and, during such period, comply with the provisions of the Securities Act with respect to the disposition of all Registrable Securities of the Company covered by such Registration Statement until such time as all of such Registrable Securities shall have been disposed of in accordance with the intended methods of disposition by the seller or sellers thereof as set forth in such Registration Statement. In the case of amendments and supplements to a Registration Statement which are required to be filed pursuant to this Agreement by reason of the Company filing a report on Forms 10-K, 10-Q or Current Report on Form 8-K, or any analogous report under the Securities Exchange Act, the Company shall have incorporated such report by reference into such Registration Statement, if applicable, or shall file such amendments or supplements with the Commission on the same day on which the Securities Exchange Act report is filed which created the requirement for the Company to amend or supplement such Registration Statement.

(c) The Company shall furnish to each Stockholder holding Registrable Securities in any Registration Statement, without charge, (i) promptly after the same is prepared and filed with the Commission at least one copy of such Registration Statement and any amendment(s) thereto, including financial statements and schedules, all documents incorporated therein by reference, if requested by such seller, all exhibits and each preliminary Prospectus, (ii) upon the effectiveness of any Registration Statement, ten (10) copies of the Prospectus included in such Registration Statement and all amendments and supplements thereto (or such other number of copies as such seller may reasonably request), and (iii) such other documents, including copies of any preliminary or final Prospectus, as such seller may reasonably request from time to time in order to facilitate the disposition of the Registrable Securities owned by such seller.

(d) The Company shall use its commercially reasonable efforts to (i) register and qualify, unless an exemption from registration and qualification applies, the resale by any seller of the Registrable Securities covered by a Registration Statement under such other securities or "blue sky" laws of all applicable jurisdictions in the United States, (ii) prepare and file in those jurisdictions, such amendments (including post-effective amendments) and supplements to such registrations and qualifications as may be necessary to maintain the effectiveness thereof during the Effectiveness Period, (iii) take such other actions as may be necessary to maintain such registrations and qualifications in effect at all times during the Effectiveness Period, and (iv) take all other actions reasonably necessary or advisable to qualify the Registrable Securities for sale in such jurisdictions; *provided*, *however*, that the Company shall not be required in connection therewith or as a condition thereto to (x) qualify to do business in any jurisdiction where it would not otherwise be required to qualify but for this Section 3(d), (y) subject itself to general taxation in any such jurisdiction, or (z) file a general consent to service of process in any such jurisdiction.

(e) The Company shall use its best efforts to prevent the issuance of any stop order or other suspension of effectiveness of a Registration Statement, or the suspension of the qualification of any of Registrable Securities for sale in any jurisdiction and, if such an order or suspension is issued, to obtain the withdrawal of such order or suspension at the earliest practicable time and to notify the Stockholders holding any Registrable Securities included in the offering under such Registration Statement of such order and the resolution thereof or its receipt of actual notice of the initiation or threat of any proceeding for such purpose.

(f) The Company shall notify the Stockholder in writing of the happening of any event, as promptly as practicable after becoming aware of such event, as a result of which the Prospectus included in a Registration Statement, as then in effect, includes an untrue statement of a material fact or omission to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading (provided that in no event shall such notice contain any material, nonpublic information), and, subject to Section 3(r), promptly prepare a supplement or amendment to such Registration Statement to correct such untrue statement or omission, and deliver ten (10) copies of such supplement or amendment to the Stockholder (or such other number of copies as the Stockholder may reasonably request).

(g) The Company shall promptly notify the Stockholder in writing (i) when a Prospectus or any Prospectus supplement or post-effective amendment has been filed, and when a Registration Statement or any post-effective amendment has become effective (notification of such effectiveness shall be delivered to the Stockholder by facsimile on the same day of such effectiveness or by overnight delivery), (ii) of any request by the Commission for amendments or supplements to a Registration Statement or related Prospectus or related information, and (iii) of the Company's reasonable determination that a post-effective amendment to a Registration Statement would be appropriate.

(h) If the Stockholder is required under applicable securities laws to be described in a Registration Statement as an underwriter, at the reasonable request of such Stockholder, the Company shall use its best efforts to furnish to such Stockholder, on the date of the effectiveness of such Registration Statement and thereafter from time to time on such dates as the Stockholder may reasonably request (i) a letter, dated such date, from the Company's independent certified public accountants in form and substance as is customarily given by independent certified public accountants to underwriters in an underwritten public offering, addressed to the Stockholder, and (ii) an opinion, dated as of such date, of counsel representing the Company for purposes of such Registration Statement, in form, scope and substance as is customarily given in an underwritten public offering, addressed to the Stockholder.

(i) If the Stockholder is required under applicable securities laws to be described in a Registration Statement as an underwriter, then at the request of such Stockholder in connection with such Stockholder's due diligence requirements, the Company shall make available for inspection by (i) the Stockholder, (ii) the Stockholder's legal counsel, and (iii) one firm of accountants or other agents retained by the Stockholder (collectively, the "Inspectors"), all pertinent financial and other records, and pertinent corporate documents and properties of the Company (collectively, the "Records"), as shall be reasonably deemed necessary by each Inspector, and cause the Company's officers, directors and employees to supply all information which any Inspector may reasonably request; *provided*, *however*, that each Inspector shall agree to hold in strict confidence and shall not make any disclosure (except to the Stockholder) or use of any Record or other information which the Company determines in good faith to be confidential, and of which determination the Inspectors are so notified, unless (a) the disclosure of such Records is necessary to avoid or correct a misstatement or omission in any Registration Statement or is otherwise required under the Securities Act, (b) the release of such Records is ordered pursuant to a final, non-appealable subpoena or order from a court or government body of competent jurisdiction, or (c) the information in such Records has been made generally available to the public other than by disclosure in violation of this or any other agreement of which the Inspector has knowledge. Each Stockholder agrees that it shall, upon learning that disclosure of such Records is sought in or by a court or governmental body of competent jurisdiction or through other means, give prompt notice to the Company and allow the Company, at its expense, to undertake appropriate action to prevent disclosure of, or to obtain a protective order for, the Records deemed confidential. Nothing herein (or in any other confidentiality agreement between the Company and the Stockholder) shall be deemed to limit the Stockholder's ability to sell Registrable Securities in a manner which is otherwise consistent with applicable laws and regulations.

(j) The Company shall hold in confidence and not make any disclosure of information concerning the Stockholder provided to the Company unless (i) disclosure of such information is necessary to comply with federal or state securities laws, (ii) the disclosure of such information is necessary to avoid or correct a misstatement or omission in any Registration Statement, (iii) the release of such information is ordered pursuant to a subpoena or other final, non-appealable order from a court or governmental body of competent jurisdiction, (iv) such information has been made generally available to the public other than by disclosure in violation of this Agreement or any other agreement, or (v) the Stockholder provides information to the Company intended for inclusion in a Registration Statement. The Company agrees that it shall, upon learning that disclosure of such information concerning the Stockholder is sought in or by a court or governmental body of competent jurisdiction or through other means, give prompt written notice to the Stockholder if permitted by applicable law or regulation and allow the Stockholder, at the Stockholder's expense, to undertake appropriate action to prevent disclosure of, or to obtain a protective order for, such information.

(k) The Company shall (i) if applicable, use its best efforts to cause all of the Registrable Securities covered by a Registration Statement to be listed on each securities exchange on which securities of the same class or series issued by the Company are then listed, if any, if the listing of such Registrable Securities is then permitted under the rules of such exchange, or (ii) otherwise, use its commercially reasonable efforts to secure designation and quotation of all of the Registrable Securities covered by a Registration Statement on any one of the different levels of The NASDAQ Stock Market, or (iii) if, despite the Company's best efforts or commercially reasonable efforts, as applicable, to satisfy, the preceding clauses (i) and (ii) the Company is unsuccessful in satisfying the preceding clauses (i) and (ii), to instead secure the inclusion for quotation on the Over-the-Counter Bulletin Board for such Registrable Securities and, without limiting the generality of the foregoing, to use its commercially reasonable efforts to encourage at least two market makers to register with the Financial Industry Regulatory Authority, Inc. ("FINRA") as such with respect to such Registrable Securities. For the avoidance of doubt, subject to and in accordance with Section 5, the Company shall pay all fees and expenses of the Company in connection with satisfying its obligation under this Section 3(k).

(l) If requested by the Stockholder, the Company shall (i) as soon as practicable incorporate in a Prospectus supplement or post-effective amendment such information as the Stockholder reasonably requests to be included therein relating to the sale and distribution of Registrable Securities, including, without limitation, information with respect to the number of Registrable Securities being offered or sold, the purchase price being paid therefor and any other terms of the offering of the Registrable Securities to be sold in such offering; (ii) as soon as practicable make all required filings of such Prospectus supplement or post-effective amendment after being notified of the matters to be incorporated in such Prospectus supplement or post-effective amendment; and (iii) as soon as practicable, supplement or make amendments to any Registration Statement if reasonably requested by the Stockholder holding any Registrable Securities.

(m) The Company shall cooperate with each Stockholder who holds Registrable Securities being offered and, to the extent applicable, facilitate the timely preparation and delivery of certificates (not bearing any restrictive legend) representing the Registrable Securities to be offered pursuant to a Registration Statement and enable such certificates to be in such denominations or amounts, as the case may be, as the Stockholder may reasonably request and registered in such names as the Stockholder may request.

(n) The Company shall use its commercially reasonable efforts to cause the Registrable Securities covered by a Registration Statement to be registered with or approved by such other U.S. governmental agencies or authorities, but only in matters not contemplated Section 3(d) by or reasonably related to such matters (which matters are to be governed exclusively by Section 3(d)), as may be strictly necessary to consummate the disposition of such Registrable Securities by the Stockholder strictly in accordance with the Plan of Distribution included in the Registration Statement (as such Plan of Distribution may be modified from time to time in any filing with the Commission).

(o) The Company shall make generally available to its security holders as soon as practicable, but not later than ninety (90) days after the close of the period covered thereby (or, if different, within the period permitted for the filing of reports on Forms 10-K or 10-Q), an earnings statement (in form complying with, and in the manner provided by, the provisions of Rule 158 under the Securities Act) covering a twelve-month period beginning not later than the first day of the Company's fiscal quarter next following the Effective Date of a Registration Statement.

(p) The Company shall otherwise use its commercially reasonable efforts to comply with all applicable rules and regulations of the Commission in connection with any registration hereunder.

(q) Within two (2) business days after a Registration Statement which covers Registrable Securities is ordered effective by the Commission, the Company shall deliver, and shall cause legal counsel for the Company to deliver, to the transfer agent for such Registrable Securities (with copies to the Stockholder whose Registrable Securities are included in such Registration Statement) confirmation that such Registration Statement has been declared effective by the Commission in the form attached hereto as Exhibit A and the Irrevocable Transfer Agent Instructions in the form attached hereto as Exhibit B.

(r) Notwithstanding anything to the contrary herein, at any time after the Effective Date of a Registration Statement, the Company may delay the disclosure of material, non-public information concerning the Company the disclosure of which at the time is not, in the good faith opinion of the Board of Directors of the Company, in the best interest of the Company and not, after consultation with legal counsel, otherwise required (a "Grace Period"); provided, that the Company shall promptly (i) notify the Stockholder in writing of the existence of material, non-public information giving rise to a Grace Period (provided that in each notice the Company will not disclose the content of such material, non-public information to the Stockholder) and the date on which the Grace Period will begin, and (ii) notify the Stockholder in writing of the date on which the Grace Period ends; and, provided further, that no Grace Period shall exceed sixty (60) consecutive days and during any three hundred sixty-five (365) day period such Grace Periods shall not exceed an aggregate of one hundred twenty (120) days (each, an "Allowable Grace Period"). For purposes of determining the length of a Grace Period above, the Grace Period shall begin on and include the date the Stockholder receives the notice referred to in clause (i) and shall end on and include the later of the date the Stockholder receives the notice referred to in clause (ii) and the date referred to in such notice. The provisions of Section 3(f) hereof shall not be applicable during the period of any Allowable Grace Period. Upon expiration of the Grace Period, the Company shall again be bound by Section 3(f) with respect to the information giving rise thereto unless such material, non-public information is no longer applicable. Notwithstanding anything to the contrary, the Company shall cause its transfer agent to deliver unlegended shares of Common Stock to a transferee of the Stockholder in connection with any sale of Registrable Securities with respect to which the Stockholder has entered into a contract for sale, and delivered a copy of the Prospectus included as part of the applicable Registration Statement (unless an exemption from such Prospectus delivery requirements exists), prior to the Stockholder's receipt of the notice of a Grace Period or, if earlier, Stockholders knowledge of the material, non-public information concerning the Company that gave rise to the Grace Period, and for which the Stockholder has not yet settled.

4. Obligations of the Stockholders.

(a) At least five (5) business days prior to the first anticipated filing date of a Registration Statement, the Company shall notify the Stockholders in writing of the information the Company requires from each Stockholder if the Stockholder's Registrable Securities are to be included in such Registration Statement. It shall be a condition precedent to the obligations of the Company to complete the registration pursuant to this Agreement with respect to any Registrable Securities of the Stockholder that the Stockholder shall furnish to the Company such information regarding itself, the Registrable Securities held by it and the intended method of disposition of the Registrable Securities held by it as shall be reasonably required to effect the effectiveness of the registration of such Registrable Securities and shall execute such documents in connection with such registration as the Company may reasonably request.

(b) The Stockholder, by the Stockholder's acceptance of the Registrable Securities, agrees to cooperate with the Company as reasonably requested by the Company in connection with the preparation and filing of any Registration Statement hereunder, unless the Stockholder has notified the Company in writing of the Stockholder's election to exclude all of the Stockholder's Registrable Securities from such Registration Statement.

(c) The Stockholder agrees that, upon receipt of any notice from the Company of the happening of any event of the kind described in Sections 3(e) or 3(f) or of a Grace Period under Section 3(r), the Stockholder will immediately discontinue disposition of Registrable Securities pursuant to any Registration Statement(s) covering such Registrable Securities until the Stockholder's receipt of the copies of the supplemented or amended Prospectus contemplated by Sections 3(e) or 3(f) or receipt of notice that no supplement or amendment is required. Notwithstanding anything to the contrary, the Company shall cause its transfer agent to deliver unlegended shares of Common Stock to a transferee of the Stockholder in connection with any sale of Registrable Securities with respect to which the Stockholder has entered into a contract for sale prior to the Stockholder's receipt of a notice from the Company of the happening of any event of the kind described in Sections 3(e) or 3(f) or of any Grace Period, or, if earlier, Stockholders knowledge of the material, non-public information concerning the Company or the facts or circumstances that gave rise to the Grace Period or of the Section 3(e) or 3(f) event, and for which the Stockholder has not yet settled.

(d) The Stockholder covenants and agrees that it will comply with the Prospectus delivery requirements of the Securities Act as applicable to it or an exemption therefrom in connection with sales of Registrable Securities pursuant to a Registration Statement.

5. Registration Expenses. All expenses incident to the Company's performance of or compliance with this Agreement, including without limitation all registration and filing fees, fees and expenses of compliance with securities or blue sky laws, printing expenses, messenger and delivery expenses, fees and disbursements of custodians, and fees and disbursements of counsel for the Company and all independent certified public accountants, underwriters (excluding discounts, commissions and placement agent fees) and other Persons retained by the Company (all such expenses being herein called "Registration Expenses"), shall be borne by the Company. Further, the Company shall pay its internal expenses (including, without limitation, all salaries and expenses of its officers and employees performing legal or accounting duties), the expense of any annual audit or quarterly review, the expense of any liability insurance and the expenses and fees for listing the securities to be registered on each securities exchange on which similar securities issued by the Company are then listed.

6. Indemnification.

In the event any Registrable Securities are included in a Registration Statement under this Agreement:

(a) To the fullest extent permitted by law, the Company will, and hereby does, indemnify, hold harmless and defend the Stockholder, the directors, officers, members, partners, employees, agents, representatives of, and each Person, if any, who controls the Stockholder within the meaning of the Securities Act or the Securities Exchange Act (each, an "Indemnified Person"), against any losses, claims, damages, liabilities, judgments, fines, penalties, charges, costs, reasonable attorneys' fees, amounts paid in settlement or expenses, joint or several, (collectively, "Claims") incurred in investigating, preparing or defending any action, claim, suit, inquiry, proceeding, investigation or appeal taken from the foregoing by or before any court or governmental, administrative or other regulatory agency, body or the Commission, whether pending or threatened, whether or not an indemnified party is or may be a party thereto ("Indemnified Damages"), to which any of them may become subject insofar as such Claims (or actions or proceedings, whether commenced or threatened, in respect thereof) arise out of or are based upon: (i) any untrue statement or alleged untrue statement of a material fact in a Registration Statement or any post-effective amendment thereto or in any filing made in connection with the qualification of the offering under the securities or other "blue sky" laws of any jurisdiction in which Registrable Securities are offered ("Blue Sky Filing"), or the omission or alleged omission to state a material fact required to be stated therein or necessary to make the statements therein not misleading, (ii) any untrue statement or alleged untrue statement of a material fact contained in any preliminary Prospectus if used prior to the effective date of such Registration Statement, or contained in the final Prospectus (as amended or supplemented, if the Company files any amendment thereof or supplement thereto with the Commission) or the omission or alleged omission to state therein any material fact necessary to make the statements made therein, in the light of the circumstances under which the statements therein were made, not misleading, (iii) any violation or alleged violation by the Company of the Securities Act or the Securities Exchange Act, any other law, including, without limitation, any state securities law, or any rule or regulation thereunder relating to the offer or sale of the Registrable Securities pursuant to a Registration Statement or (iv) any violation of this Agreement (the matters in the foregoing clauses (i) through (iv) being, collectively, "Violations"). Subject to Section 6(c), the Company shall reimburse the Indemnified Persons, promptly as such expenses are incurred and are due and payable, for any legal fees or other reasonable expenses incurred by them in connection with investigating or defending any such Claim. Notwithstanding anything to the contrary contained herein, the indemnification agreement contained in this Section 6(a): (i) shall not apply to a Claim by an Indemnified Person arising out of or based upon a Violation which occurs in reliance upon and in conformity with information furnished in writing to the Company by such Indemnified Person or by a Related Information Provider expressly for use in connection with the preparation of the Registration Statement or any such amendment thereof or supplement thereto and (ii) shall not be available to the extent such Claim is based on a failure of the Stockholder to deliver or to cause to be delivered the Prospectus made available by the Company, including a corrected Prospectus, if such Prospectus or corrected Prospectus was timely made available by the Company pursuant to Section 3(c); and (iii) shall not apply to amounts paid in settlement of any Claim if such settlement is effected without the prior written consent of the Company, which consent shall not be unreasonably withheld or delayed. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of the Indemnified Person and shall survive the transfer of the Registrable Securities by the Stockholder pursuant to Section 10. "Related Information Provider" means, in respect of any Indemnified Person, the Stockholder to which such Indemnified Person is related or another Indemnified Person that is related to the Stockholder to which such Indemnified Person is related.

(b) To the fullest extent permitted by law, in connection with any Registration Statement in which a Stockholder's Registrable Securities are included or in which a Stockholder is otherwise participating, such Stockholder will severally and not jointly indemnify and hold harmless the Company, each of its directors, each of its officers who has signed the Registration Statement, each Person, if any, who controls the Company within the meaning of the Securities Act, any underwriter, any other Stockholder or other Person selling securities in such Registration Statement and any controlling person of any such underwriter or other Stockholder or other Person (each an "Other Indemnified Person"), against any Claims or Indemnified Damages to which any of them may become subject, under the Securities Act, the Exchange Act or otherwise, insofar as such Claim or Indemnified Damages arise out of or are based upon any Violation, in each case to the extent, and only to the extent, that such Violation occurs in reliance upon and in conformity with written information furnished by such Stockholder or by a Related Information Provider expressly for use in connection with such Registration Statement; and each such Stockholder will pay, as incurred, any legal or other expenses reasonably incurred by any Other Indemnified Person intended to be indemnified pursuant to this Section 6(b), in connection with investigating or defending any such Claim; *provided*, *however*, that the indemnity agreement contained in this Section 6(b) shall not apply to amounts paid in settlement of any such Claim if such settlement is effected without the prior written consent of the Stockholder, which consent shall not be unreasonably withheld; *provided*, *further*, *however*, that the Stockholder shall be liable under this Section 6(b) for only that amount of a Claim or Indemnified Damages as does not exceed the net proceeds to the Stockholder as a result of the sale of Registrable Securities pursuant to such Registration Statement, except in the case of fraud by such Stockholder. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of such Other Indemnified Person and shall survive the transfer of the Registrable Securities by the Stockholder pursuant to Section 10.

(c) Promptly after receipt by an Indemnified Person or Other Indemnified Person under this Section 6 of notice of the commencement of any action or proceeding (including any governmental action or proceeding) involving a Claim, such Indemnified Person or Other Indemnified Person shall, if a claim for indemnification in respect thereof is to be made against any indemnifying party under this Section 6, deliver to the indemnifying party a written notice of the commencement thereof, and the indemnifying party shall have the right to participate in, and, to the extent the indemnifying party so desires, jointly with any other indemnifying party similarly noticed, to assume control of the defense thereof with counsel mutually satisfactory to the indemnifying party and reasonably satisfactory to the Indemnified Person or the Other Indemnified Person, as the case may be; *provided*, *however*, that an Indemnified Person or Other Indemnified Person shall have the right to retain its own counsel with the fees and expenses of not more than one counsel for all such Indemnified Persons or all such Other Indemnified Persons to be paid by the indemnifying party, if, in the reasonable opinion of counsel retained by the indemnifying party, the representation by such counsel of the Indemnified Person or Other Indemnified Person and the indemnifying party would be inappropriate due to actual or potential differing interests between such Indemnified Person or Other Indemnified Person and any other party represented by such counsel in such proceeding. The Other Indemnified Person or Indemnified Person, as applicable, shall cooperate fully with the indemnifying party in connection with any negotiation or defense of any such action or Claim by the indemnifying party and shall furnish to the indemnifying party all information reasonably available to such Other Indemnified Person or such Indemnified Person which relates to such action or Claim. The indemnifying party shall keep the Other Indemnified Person or Indemnified Person, as applicable, reasonably apprised at all times as to the status of the defense or any settlement negotiations with respect thereto. No indemnifying party shall be liable for any settlement of any action, claim or proceeding effected without its prior written consent; *provided*, *however*, that the indemnifying party shall not unreasonably withhold, delay or condition its consent. No indemnifying party shall, without the prior written consent of the Other Indemnified Person or Indemnified Person, as applicable, consent to entry of any judgment or enter into any settlement or other compromise which does not include as an unconditional term thereof the giving by the claimant or plaintiff to such Other Indemnified Person or such Indemnified Person of a release from all liability in respect to the Claim at issue, and such settlement shall not include any admission as to fault on the part of such Other Indemnified Person or such Indemnified Person. Following indemnification as provided for hereunder, the indemnifying party shall be subrogated to all rights of the Other Indemnified Person or Indemnified Person, as applicable, with respect to all third parties, firms or corporations relating to the matter for which indemnification has been made. The failure to deliver written notice to the indemnifying party within a reasonable time of the commencement of any such action shall not relieve such indemnifying party of any liability to the Indemnified Person or Other Indemnified Person, as applicable, under this Section 6, except to the extent that the indemnifying party is materially prejudiced in its ability to defend such action.

(d) The indemnification required by this Section 6 shall be made by periodic payments of the amount thereof during the course of the investigation or defense, as and when bills are received or Indemnified Damages are incurred, subject to an undertaking by the Indemnified Person or the Other Indemnified Person, as applicable, to return such payments to the extent a court of competent jurisdiction or other competent authority determines that such payments were unlawful or were not required under this Agreement.

(e) Without any duplication or multiplication of damages, the indemnity agreements contained herein shall be in addition to (i) any cause of action or similar right of the Other Indemnified Person or Indemnified Person against the indemnifying party or others, and (ii) any liabilities the indemnifying party may be subject to pursuant to the law.

(f) Unless suspended by the underwriting agreement applicable to any registration, the obligations of the Company and Stockholders under this Section 6 shall survive the completion of any offering of Registrable Securities in a Registration Statement under this Agreement, or otherwise.

7. Contribution. To the extent any indemnification by an indemnifying party is prohibited or limited by law, such indemnifying party agrees to make the maximum contribution with respect to any amounts for which it would otherwise be liable under Section 6 to the fullest extent permitted by law; *provided*, *however*, that: (i) no Person involved in the sale of Registrable Securities which Person is guilty of fraudulent misrepresentation (within the meaning of Section 10(f) of the Securities Act) in connection with such sale shall be entitled to contribution from any Person involved in such sale of Registrable Securities who was not guilty of fraudulent misrepresentation; and (ii) contribution by any seller of Registrable Securities shall be limited in amount to the net amount of proceeds received by such seller from the sale of such Registrable Securities pursuant to such Registration Statement

8. No Delay of Registration. No Stockholder shall have any right to obtain or seek an injunction restraining or otherwise delaying any registration as the result of any controversy that might arise with respect to the interpretation or implementation of this Agreement.

9. Reports under Securities Exchange Act. With a view to making available to the Stockholder the benefits of Rule 144 promulgated under the Securities Act or any other similar rule or regulation of the Commission that may at any time permit the Stockholder to sell securities of the Company to the public without registration, once the Company becomes a Reporting Company, the Company agrees to use its commercially reasonable efforts to continue to be a Reporting Company for five years and further during such time it is a Reporting Company the Company agrees to use its best efforts to:

(a) make and keep public information available, as those terms are understood and defined in Rule 144;

(b) file with the Commission in a timely manner all reports and other documents required of the Company under the Securities Act and the Securities Exchange Act so long as the Company remains subject to such requirements and the filing of such reports and other documents is required for the applicable provisions of Rule 144; and

(c) furnish to the Stockholder so long as the Stockholder owns Registrable Securities, promptly upon request, (i) a written statement by the Company, if true, that it has complied with the reporting requirements of Rule 144, the Securities Act and the Securities Exchange Act, (ii) a copy of the most recent annual or quarterly report of the Company and such other reports and documents so filed by the Company, and (iii) such other information as may be reasonably requested to permit the Stockholder to sell such securities pursuant to Rule 144 without registration.

10. Assignment of Registration Rights. The rights under this Agreement shall be automatically assignable by the Stockholder to any transferee of all or any portion of the Stockholder's Registrable Securities if: (i) the Stockholder agrees in writing with the transferee or assignee to assign such rights, and a copy of such agreement is furnished to the Company within a reasonable time after such assignment; (ii) the Company is, within a reasonable time after such transfer or assignment, furnished with written notice of (a) the name and address of such transferee or assignee, and (b) the securities with respect to which such registration rights are being transferred or assigned; (iii) immediately following such transfer or assignment the further disposition of such securities by the transferee or assignee is or might be restricted under the Securities Act and applicable state securities laws; and (iv) at or before the time the Company receives the written notice contemplated by clause (ii) of this sentence the transferee or assignee agrees in writing with the Company to be bound by all of the provisions contained herein.

11. Subsequent Registration Rights. The Company agrees that after the date hereof and excluding any registration rights agreement with National Securities or its members and affiliates, it will not grant to any person any registration right or proceed to register any securities of any person unless it provides in such agreement or registration that any securities being registered under such agreement or registration will be subject to the cutback provisions of this Agreement as provided in Section 1(c) and Section 2(b).

12. Amendment of Registration Rights. Provisions of this Agreement may be amended and the observance thereof may be waived (either generally or in a particular instance and either retroactively or prospectively), only with the written consent of the Company and the holders of at least a majority of the then outstanding Registrable Securities. Any amendment so effected will be binding upon all Holders, whether or not such Stockholder consents thereto.

13. Definitions.

(a) "Commission" means the Securities and Exchange Commission.

(b) "Commission Comments" means written comments pertaining solely to Rule 415 or other comments to the extent they relate to Rule 415 which are received by the Company from the Commission, and a copy of which shall have been provided by the Company to the Stockholder, to a filed Registration Statement which limit the amount of shares which may be included therein to a number of shares which is less than such amount sought to be included thereon as filed with the Commission.

(c) "Commission Guidance" means (i) any publicly-available written or oral guidance, comments, requirements or requests of the Commission staff, (ii) the Securities Act or (iii) the Securities Exchange Act.

(d) "Common Stock" means the common stock, $0.001 par value per share, of the Company.

(e) "Effective Date" means, as to a Registration Statement, the date on which such Registration Statement is first declared effective by the Commission.

(f) "Person" means an individual, a partnership, a limited liability company, a corporation, an association, a joint stock company, a trust, a joint venture, an unincorporated organization and a governmental entity or any department, agency or political subdivision thereof.

(g) "Prospectus" means the prospectus included in the Registration Statement (including, without limitation, a prospectus that includes any information previously omitted from a prospectus filed as part of an effective Registration Statement in reliance upon Rule 430A promulgated under the Securities Act), as amended or supplemented by any prospectus supplement, with respect to the terms of the offering of any portion of the Registrable Securities covered by the Registration Statement, and all other amendments and supplements to the Prospectus, including post-effective amendments, and all material incorporated by reference or deemed to be incorporated by reference in such Prospectus

(h) "Registrable Securities" means (i) the Conversion Shares issued or issuable to the Stockholder or its assignees or successor in interest pursuant to conversion of the Shares and (ii) any other shares of Common Stock or any other securities issued or issuable with respect to the securities referred to in clause (i) by way of a stock dividend or stock split or in connection with an exchange or combination of shares, recapitalization, merger, consolidation or other reorganization.

(i) "Registration Statement" means any registration statement (including, without limitation, the Initial Registration Statement or the Follow-up Registration Statement) required to be filed hereunder (which, at the Company's option, may be an existing registration statement of the Company previously filed with the Commission, but not declared effective), including (in each case) the Prospectus, amendments and supplements to the Registration Statement or Prospectus, including pre- and post-effective amendments, all exhibits thereto, and all material incorporated by reference or deemed to be incorporated by reference in the Registration Statement.

(j) "Reporting Company" means a company that is obligated to file periodic reports under Sections 13 or 15(d) of the Securities Exchange Act.

(k) "Rule 144" means Rule 144 promulgated by the Commission pursuant to the Securities Act, as such Rule may be amended from time to time, or any similar rule or regulation hereafter adopted by the Commission that may at any time permit the Stockholder to sell securities of the Company to the public without registration.

(l) "Rule 415" means Rule 415 promulgated by the Commission pursuant to the Securities Act, as such Rule may be amended from time to time, or any similar rule or regulation hereafter adopted by the Commission having substantially the same effect as such Rule.

(m) "Rule 424" means Rule 424 promulgated by the Commission pursuant to the Securities Act, as such Rule may be amended from time to time, or any similar rule or regulation hereafter adopted by the Commission having substantially the same effect as such Rule.

(n) "Securities Act" means the Securities Act of 1933, as amended from time to time together with the regulations promulgated thereunder.

(o) "Securities Exchange Act" means the Securities Exchange Act of 1934, as amended from time to time, together with the regulations promulgated thereunder.

(p) "Underwriter Cutbacks" means any reduction in the number of shares suggested by any managing underwriter to be included in a registration under a Registration Statement based upon the guidance in this Section 13(p). In connection with any offering involving an underwriting of shares of the Company's capital stock, the Company shall not be required under Section 1 to include any of the Stockholders' securities in such underwriting unless they accept the terms of the underwriting as agreed upon between the Company and the underwriters, and then only in such quantity as the underwriters determine in their sole discretion will not jeopardize the success of the offering by the Company. If the total amount of securities, including Registrable Securities, requested by stockholders to be included in such offering exceeds the amount of securities to be sold other than by the Company that the underwriters determine in their sole discretion is compatible with the success of the offering, then the Company shall be required to include in the offering only that number of such securities, including Registrable Securities, which the underwriters determine in their sole discretion will not jeopardize the success of the offering (the securities so included to be apportioned pro rata among the selling shareholders according to the total amount of securities entitled to be included therein owned by each selling shareholder or in such other proportions as shall mutually be agreed to by such selling shareholders); provided, that any such cutback will be effected in accordance with the priorities established by Section 1(c); provided further that in no event shall the amount of securities of the selling Stockholders included in the offering be reduced below 30% of the total amount of securities included in such offering.

14. Market Stand-Off. In connection with the Initial Public Offering of the Company's securities, if any, each Stockholder hereby agrees not to sell, make any short sale of, loan, grant any option for the purchase of, or otherwise dispose of any securities of the Company however or whenever acquired (other than those included in the registration, if any) without the prior written consent of the managing or lead underwriter of such offering, for a period of one hundred eighty (180) days from the effective date of such registration (the "Restricted Period"), and to the extent requested by the underwriter, each Stockholder shall, at the time of such offering, execute an agreement reflecting these requirements binding on such Stockholder that are substantially consistent with this Section 14; *provided*, *however*, that if during the last seventeen (17) days of the Restricted Period the Company issues an earnings release or material news or a material event relating to the Company occurs, or prior to the expiration of the Restricted Period the Company announces that it will release earnings results during the sixteen (16) day period beginning on the last day of the restricted period, then, upon the request of the managing underwriter, to the extent required by any FINRA rules, the restrictions imposed by this Section 14 shall continue to apply until the end of the third (3rd) trading day following the expiration of the fifteen (15) day period beginning on the issuance of the earnings release or the occurrence of the material news or material event. In no event will the Restricted Period extend beyond two hundred sixteen (216) days after the effective date of the registration statement. In order to enforce the restriction set forth above or any other restriction agreed by Stockholder, including without limitation any restriction requested by the underwriters of any Initial Public Offering of the securities of the Company agreed by such Stockholder, the Company may impose stop-transfer instructions with respect to any security acquired under or subject to this Agreement until the end of the applicable stand-off period. The Company's underwriters shall be third-party beneficiaries of the agreement set forth in this Section 14. Each Stockholder agrees that prior to the Company's Initial Public Offering it will not transfer securities of the Company unless each transferee agrees in writing to be bound by all of the provisions of this Section 14, provided that this Section 14 shall not apply to transfers pursuant to a Registration Statement.

Each Stockholder agrees that a legend reading substantially as follows shall be placed on all certificates representing all Registrable Securities of each Stockholder issued before the Company's Initial Public Offering (and the shares or securities of every other person subject to the restriction contained in this Section 14):

THE SECURITIES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO A LOCK-UP PERIOD OF UP TO 180 DAYS AFTER THE EFFECTIVE DATE OF THE ISSUER'S REGISTRATION STATEMENT FILED UNDER THE ACT, AS AMENDED, AS SET FORTH IN AN AGREEMENT BETWEEN THE COMPANY AND THE ORIGINAL HOLDER OF THESE SECURITIES, A COPY OF WHICH MAY BE OBTAINED AT THE ISSUER'S PRINCIPAL OFFICE. SUCH LOCK-UP PERIOD IS BINDING ON TRANSFEREES OF THESE SHARES.

After the Company's Initial Public Offering and expiration of any lock-up period, upon request of any Stockholder who is a holder of record of the shares represented by any stock certificate(s) bearing such legend and the surrender of such certificate(s) in connection with such request, the Company shall cause its transfer agent to promptly issue replacement certificate(s) not bearing such legend representing the shares represented by such surrendered stock certificate(s).

15. Miscellaneous.

(a) A Person is deemed to be a holder of Registrable Securities whenever such Person owns or is deemed to own of record such Registrable Securities. If the Company receives conflicting instructions, notices or elections from two or more Persons with respect to the same Registrable Securities, the Company shall act upon the basis of instructions, notice or election received from such record owner of such Registrable Securities.

(b) Any notices, consents, waivers or other communications required or permitted to be given under the terms of this Agreement must be in writing and will be deemed to have been delivered: (i) upon receipt, when delivered personally; (ii) upon receipt, when sent by facsimile (provided confirmation of transmission is mechanically or electronically generated and kept on file by the sending party); or (iii) one business day after deposit with a nationally recognized overnight delivery service, in each case properly addressed to the party to receive the same. The addresses and facsimile numbers for such communications shall be:

If to the Company:

Eton Pharmaceuticals, Inc.
12264 El Camino Real, Suite 350
San Diego, CA 92130
Facsimile: (858) 345-1743
E-mail: *mark@imprimispharma.com*
Attention: Mark L. Baum

with a copy (for informational purposes only) to:

Golenbock Eiseman Assor Bell & Peskoe LLP
711 Third Avenue, 17th Floor
New York, NY 10017
Facsimile: (212) 754-0330
E-mail: *ahudders@golenbock.com*
cvandemark@golenbock.com
Attention: Andrew D. Hudders, Esq.
Carl Van Demark, Esq.

and

If to any Stockholder, at the address for such Stockholder on the records of the Company, which may include the information on Schedule A hereto.

or to such other address and/or facsimile number and/or to the attention of such other Person as the recipient party has specified by written notice given to each other party five (5) days prior to the effectiveness of such change. Written confirmation of receipt (A) given by the recipient of such notice, consent, waiver or other communication, (B) mechanically or electronically generated by the sender's facsimile machine containing the time, date, recipient facsimile number and an image of the first page of such transmission or (C) provided by a courier or overnight courier service shall be rebuttable evidence of personal service, receipt by facsimile or receipt from a nationally recognized overnight delivery service in accordance with clause (i), (ii) or (iii) above, respectively.

(c) Failure of any party to exercise any right or remedy under this Agreement or otherwise, or delay by a party in exercising such right or remedy, shall not operate as a waiver thereof.

(d) All questions concerning the construction, validity, enforcement and interpretation of this Agreement shall be governed by the internal laws of the State of New York, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of New York or other jurisdictions) that would cause the application of the laws of any jurisdictions other than the State of New York. Each party hereby irrevocably submits to the exclusive jurisdiction of the state and federal courts sitting in the State of New York, 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 brought in an inconvenient forum or that the venue of such suit, action or proceeding is improper. Each party 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 to such party at the address for such 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 manner permitted by law. If any provision of this Agreement shall be invalid or unenforceable in any jurisdiction, such invalidity or unenforceability shall not affect the validity or enforceability of the remainder of this Agreement in that jurisdiction or the validity or enforceability of any provision of this Agreement in any other jurisdiction. **EACH PARTY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE, AND AGREES NOT TO REQUEST, A JURY TRIAL FOR THE ADJUDICATION OF ANY DISPUTE HEREUNDER OR IN CONNECTION HEREWITH OR ARISING OUT OF THIS AGREEMENT OR ANY TRANSACTION CONTEMPLATED HEREBY.**

(e) This Agreement and the instruments referenced herein and therein constitute the entire agreement among the parties hereto with respect to the subject matter hereof and thereof. There are no restrictions, promises, warranties or undertakings, other than those set forth or referred to herein and therein. This Agreement and the instruments referenced herein and therein supersede all prior agreements and understandings among the parties hereto with respect to the subject matter hereof and thereof.

(f) Subject to the requirements of Section 9, this Agreement shall inure to the benefit of and be binding upon the permitted successors and assigns of each of the parties hereto.

(g) The headings in this Agreement are for convenience of reference only and shall not limit or otherwise affect the meaning hereof.

(h) This Agreement may be executed in identical counterparts, each of which shall be deemed an original but all of which shall constitute one and the same agreement. This Agreement, once executed by a party, may be delivered to the other party hereto by facsimile transmission or other electronic transmission (such as but not limited to an email attachment in PDF format) of a copy of this Agreement bearing the signature of the party so delivering this Agreement. This Agreement may also be executed by electronic signature of such Person.

(i) Each party shall do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as any other party may reasonably request in order to carry out the intent and accomplish the purposes of this Agreement and the consummation of the transactions contemplated hereby.

(j) All consents and other determinations required to be made by the Stockholder pursuant to this Agreement shall be made, unless otherwise specified in this Agreement, by the Stockholder.

(k) The language used in this Agreement will be deemed to be the language chosen by the parties to express their mutual intent and no rules of strict construction will be applied against any party.

(l) This Agreement is intended for the benefit of, and shall be binding upon, 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.

(m) The obligations of each Stockholder hereunder are several and not joint with the obligations of any other Stockholder, and no provision of this Agreement is intended to confer any obligations on a Stockholder vis-à-vis any other Stockholder. Nothing contained herein, and no action taken by any Stockholder pursuant hereto, shall be deemed to constitute the Stockholder as a partnership, an association, a joint venture or any other kind of entity, or create a presumption that the Stockholder are in any way acting in concert or as a group with respect to such obligations or the transactions contemplated herein.

(n) Currency. As used herein, “Dollar”, “US Dollar” and “$” each mean the lawful money of the United States.

[Signature pages follow immediately]

IN WITNESS WHEREOF, the parties have executed this Registration Rights Agreement as of the date first written above.

COMPANY:

ETON PHARMACEUTICALS, INC.

By: _____
Name:
Title:

[Stockholder Signature Page Follows]

STOCKHOLDER SIGNATURE PAGE FOR REGISTRATION RIGHTS AGREEMENT

WITH EATON PHARMACEUTICALS, INC.

[*Stockholder's signature to be provided by way of its execution of the Omnibus Signature Page to the Agent's "Omnibus Signature Page and Investor Questionnaire" with respect to this Offering.*]

EXHIBIT A

FORM OF NOTICE OF EFFECTIVENESS OF REGISTRATION STATEMENT

[Transfer Agent]
[Address]
Attention:

Re: Eton Pharmaceuticals, Inc.

Ladies and Gentlemen:

[We are][I am] counsel to Eton Pharmaceuticals, Inc., a Delaware corporation (the "Company"), and have represented the Company in connection with that certain Registration Rights Agreement with _____ (the "Stockholder") (the "Registration Rights Agreement") pursuant to which the Company agreed, among other things, to register the Registrable Securities (as defined in the Registration Rights Agreement), under the Securities Act of 1933, as amended (the "1933 Act"). In connection with the Company's obligations under the Registration Rights Agreement, on _____ ___, 20__, the Company filed a registration statement on Form S-[1] (File No. 333-_____) (the "Registration Statement") with the Securities and Exchange Commission (the "SEC") relating to the Registrable Securities which names the Stockholder as a selling stockholder thereunder.

In connection with the foregoing, [we][I] advise you that a member of the SEC's staff has advised [us][me] by telephone that the SEC has entered an order declaring the Registration Statement effective under the 1933 Act at [ENTER TIME OF EFFECTIVENESS] on [ENTER DATE OF EFFECTIVENESS] and [we][I] have no knowledge, after telephonic inquiry of a member of the SEC's staff, that any stop order suspending its effectiveness has been issued or that any proceedings for that purpose are pending before, or threatened by, the SEC and the Registrable Securities are available for resale under the 1933 Act pursuant to the Registration Statement.

If applicable, you may receive notices from the Company pursuant to the Company's rights or obligations under the Registration Rights Agreement in connection with stop orders or other restrictions on transfer of the shares included in such Registration Statement, but [we][I] [are][am] not obligated to update this letter or otherwise inform you of any such stop order or restriction.

[Other applicable disclosure to be inserted here, if appropriate.]

Very truly yours,

EXHIBIT B

IRREVOCABLE TRANSFER AGENT INSTRUCTIONS

_____, 2017

[Addressed to Transfer Agent]
_____
_____

Attention: [_____]

Ladies and Gentlemen:

Reference is made to that certain Registration Rights Agreement, dated as of [●], 2017 (the "**Agreement**"), by and among Eton Pharmaceuticals, Inc., a Delaware corporation (the "**Company**"), and _____ (the "**Stockholder**"), pursuant to which the Company is obligated to register certain shares held by the Stockholder (the "**Stockholder Shares**") of Common Stock of the Company, par value $0.001 per share (the "**Common Stock**").

This letter shall serve as our irrevocable authorization and direction to you (provided that you are the transfer agent of the Company at such time) to issue shares of Common Stock upon transfer or resale of the Stockholder Shares, unless we have otherwise informed you of the termination of effectiveness of the registration statement in which the Stockholder Shares are included, a stop order or another transfer restriction. We may also later inform you that after the termination of effectiveness of such registration statement that a registration statement in which the Stockholder's Shares are included, or that such stop order has been lifted or that such transfer restriction is not applicable, in which case this authorization and direction shall be reinstated and be effective.

You acknowledge and agree that so long as you have previously received (a) written confirmation from the Company's legal counsel that either (i) a registration statement covering resales of the Stockholder Shares has been declared and remains effective by the Securities and Exchange Commission (the "**SEC**") under the Securities Act of 1933, as amended (the "**1933 Act**"), or (ii) sales of the Stockholder Shares may be made in conformity with Rule 144 under the 1933 Act ("**Rule 144**"), (b) if applicable, a copy of such registration statement, and (c) notice from legal counsel to the Company or any Stockholder that a transfer of Stockholder Shares has been effected either pursuant to the registration statement (and a prospectus delivered to the transferee) or pursuant to Rule 144**,** then as promptly as practicable**,** you shall issue the certificates representing the Stockholder Shares registered in the names of such transferees, and such certificates shall not bear any legend restricting transfer of the Common Stock evidenced thereby and should not be subject to any stop-transfer restriction; provided, however, that if such shares of Common Stock and are not registered for resale under the 1933 Act or able to be sold under Rule 144, then the certificates for such Common Shares shall bear the following legend:

THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR APPLICABLE STATE SECURITIES LAWS. THE SECURITIES MAY NOT BE OFFERED FOR SALE, SOLD, TRANSFERRED OR ASSIGNED (I) IN THE ABSENCE OF (A) AN EFFECTIVE REGISTRATION STATEMENT FOR THE SECURITIES UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR (B) AN OPINION OF COUNSEL, IN A GENERALLY ACCEPTABLE FORM, THAT REGISTRATION IS NOT REQUIRED UNDER SAID ACT OR (II) UNLESS SOLD PURSUANT TO RULE 144 OR RULE 144A UNDER SAID ACT. NOTWITHSTANDING THE FOREGOING, THE SECURITIES MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN OR FINANCING ARRANGEMENT SECURED BY THE SECURITIES.

A form of written confirmation from the Company's outside legal counsel that a registration statement covering resales of the Stockholder Shares has been declared effective by the SEC under the 1933 Act is attached hereto. We will inform you of any stop orders or other transfer restrictions.

Please execute this letter in the space indicated to acknowledge your agreement to act in accordance with these instructions. Should you have any questions concerning this matter, please contact me at _____.

Very truly yours,

Eton Pharmaceuticals, Inc.

By: _____
Name:
Title:

THE FOREGOING INSTRUCTIONS ARE
ACKNOWLEDGED AND AGREED TO

this ___ day of _____, 2017

[TRANSFER AGENT]

By:
Name: _____
Title: _____

Enclosures

Copy: Stockholder

SCHEDULE A

LIST OF STOCKHOLDERS

Name	**Address**

SCHEDULE B

SELLING STOCKHOLDERS

The shares of common stock being offered by the selling stockholders are those issuable to the selling stockholders upon [conversion of the Series A Convertible Preferred Stock and exercise of the warrants]. For additional information regarding the issuance of the [Series A Convertible Preferred Stock and the warrants], see "Private Placement of Series A Convertible Preferred Stock" above. We are registering the shares of common stock in order to permit the selling stockholders to offer the shares for resale [from time to time]. Except for the ownership of [the Series A Convertible Preferred Stock issued pursuant to and in connection with the Securities Purchase Agreement, and the warrants issued pursuant to and the agreements governing our engagement of National Securities Corporation as a placement agent for the private placement of the Series A Convertible Preferred Stock and the engagement of National Securities Corporation as an underwriter for a public offering of common stock by the Company, and our engagement of an affiliate of National Securities Corporation as a consultant in respect of our patents and intellectual property] the selling stockholders have not had any material relationship with us within the past three years.

The table below lists the selling stockholders and other information regarding the beneficial ownership (as determined under Section 13(d) of the Securities Exchange Act of 1934, as amended, and the rules and regulations thereunder) of the shares of common stock held by each of the selling stockholders. The second column lists the number of shares of common stock beneficially owned by the selling stockholders, based on their respective ownership of shares of common stock [, Series A Convertible Preferred Stock and warrants,] as of _____, 20__, [assuming conversion of the Series A Convertible Preferred Stock and exercise of the warrants held by each such selling stockholder on that date but taking account of any limitations on conversion and exercise set forth therein].

The third column lists the shares of common stock being offered by this prospectus by the selling stockholders [and does not take into account any limitations on (i) conversion of the Series A Convertible Preferred Stock or (ii) exercise of the warrants set forth therein].

In accordance with the terms of a registration rights agreement with the holders of the Series A Convertible Preferred Stock and the warrants, this prospectus generally covers the resale of [(i) the shares of common stock issued upon conversion of the Series A Convertible Preferred Stock and (ii) the maximum number of shares of common stock issuable upon exercise of the warrants, in each case, determined as if the outstanding Series A Convertible Preferred Stock and warrants were converted or exercised (as the case may be) in full (without regard to any limitations on conversion or exercise contained therein) as of the trading day immediately preceding the date this registration statement was initially filed with the SEC]. Because the conversion price of the Series A Convertible Preferred Stock and the exercise price of the warrants may be adjusted, the number of shares that will actually be issued may be more or less than the number of shares being offered by this prospectus. The fourth column assumes the sale of all of the shares offered by the selling stockholders pursuant to this prospectus.

See "Plan of Distribution."

Name of Selling Stockholder	Number of Shares of Common Stock Owned Prior to the Offering	Maximum Number of Shares of Common Stock to be Sold Pursuant to this Prospectus	Number of Shares of Common Stock Owned After the Offering

PLAN OF DISTRIBUTION

We are registering the shares of common stock issued upon conversion of the Series A Convertible Preferred Stock to permit the resale of these shares of common stock by the holders of Common Stock from time to time after the date of this prospectus. We will not receive any of the proceeds from the sale by the selling stockholders of the shares of common stock. We will bear all fees and expenses incident to our obligation to register the shares of common stock.

The selling stockholders may sell all or a portion of the shares of common stock held by them and offered hereby from time to time directly or through one or more underwriters, broker-dealers or agents. If the shares of common stock are sold through underwriters or broker-dealers, the selling stockholders will be responsible for underwriting discounts or commissions or agent's commissions. The shares of common stock may be sold in one or more transactions at fixed prices, at prevailing market prices at the time of the sale, at varying prices determined at the time of sale or at negotiated prices. These sales may be effected in transactions, which may involve crosses or block transactions, pursuant to one or more of the following methods:

- on any national securities exchange or quotation service on which the securities may be listed or quoted at the time of sale;
- in the over-the-counter market;
- in transactions otherwise than on these exchanges or systems or in the over-the-counter market;
- through the writing or settlement of options, whether such options are listed on an options exchange or otherwise;
- ordinary brokerage transactions and transactions in which the broker-dealer solicits purchasers;
- block trades in which the broker-dealer will attempt to sell the shares as agent but may position and resell a portion of the block as principal to facilitate the transaction;
- purchases by a broker-dealer as principal and resale by the broker-dealer for its account;
- an exchange distribution in accordance with the rules of the applicable exchange;
- privately negotiated transactions;
- short sales made after the date the Registration Statement is declared effective by the SEC;
- broker-dealers may agree with a selling security holder to sell a specified number of such shares at a stipulated price per share;
- a combination of any such methods of sale; and
- any other method permitted pursuant to applicable law.

The selling stockholders may also sell shares of common stock under Rule 144 promulgated under the Securities Act of 1933, as amended, if available, rather than under this prospectus. In addition, the selling stockholders may transfer the shares of common stock by other means not described in this prospectus. If the selling stockholders effect such transactions by selling shares of common stock to or through underwriters, broker-dealers or agents, such underwriters, broker-dealers or agents may receive commissions in the form of discounts, concessions or commissions from the selling stockholders or commissions from purchasers of the shares of common stock for whom they may act as agent or to whom they may sell as principal (which discounts, concessions or commissions as to particular underwriters, broker-dealers or agents may be in excess of those customary in the types of transactions involved). In connection with sales of the shares of common stock or otherwise, the selling stockholders may enter into hedging transactions with broker-dealers, which may in turn engage in short sales of the shares of common stock in the course of hedging in positions they assume. The selling stockholders may also sell shares of common stock short and deliver shares of common stock covered by this prospectus to close out short positions and to return borrowed shares in connection with such short sales. The selling stockholders may also loan or pledge shares of common stock to broker-dealers that in turn may sell such shares.

The selling stockholders may pledge or grant a security interest in some or all of the [Series A Convertible Preferred Stock, warrants or] shares of common stock owned by them and, if they default in the performance of their secured obligations, the pledgees or secured parties may offer and sell the shares of common stock from time to time pursuant to this prospectus or any amendment to this prospectus under Rule 424(b)(3) or other applicable provision of the Securities Act amending, if necessary, the list of selling stockholders to include the pledgee, transferee or other successors in interest as selling stockholders under this prospectus. The selling stockholders also may transfer and donate the shares of common stock in other circumstances in which case the transferees, donees, pledgees or other successors in interest will be the selling beneficial owners for purposes of this prospectus.

To the extent required by the Securities Act and the rules and regulations thereunder, the selling stockholders and any broker-dealer participating in the distribution of the shares of common stock may be deemed to be "underwriters" within the meaning of the Securities Act, and any commission paid, or any discounts or concessions allowed to, any such broker-dealer may be deemed to be underwriting commissions or discounts under the Securities Act. At the time a particular offering of the shares of common stock is made, a prospectus supplement, if required, will be distributed, which will set forth the aggregate amount of shares of common stock being offered and the terms of the offering, including the name or names of any broker-dealers or agents, any discounts, commissions and other terms constituting compensation from the selling stockholders and any discounts, commissions or concessions allowed or re-allowed or paid to broker-dealers.

Under the securities laws of some states, the shares of common stock may be sold in such states only through registered or licensed brokers or dealers. In addition, in some states the shares of common stock may not be sold unless such shares have been registered or qualified for sale in such state or an exemption from registration or qualification is available and is complied with.

There can be no assurance that any selling stockholder will sell any or all of the shares of common stock registered pursuant to the registration statement, of which this prospectus forms a part.

The selling stockholders and any other person participating in such distribution will be subject to applicable provisions of the Securities Act of 1933, as amended, and the Securities Exchange Act of 1934, as amended, and in each case together with the rules and regulations thereunder, including, without limitation, to the extent applicable, Regulation M of the Exchange Act, which may limit the timing of purchases and sales of any of the shares of common stock by the selling stockholders and any other participating person. To the extent applicable, Regulation M may also restrict the ability of any person engaged in the distribution of the shares of common stock to engage in market-making activities with respect to the shares of common stock. All of the foregoing may affect the marketability of the shares of common stock and the ability of any Person to engage in market-making activities with respect to the shares of common stock.

We will pay all expenses of the registration of the shares of common stock pursuant to the registration rights agreement, estimated to be $[ ] in total, including, without limitation, Securities and Exchange Commission filing fees and expenses of compliance with state securities or "blue sky" laws; provided, however, a selling stockholder will pay all underwriting discounts and selling commissions, if any. We will indemnify the selling stockholders against liabilities, including some liabilities under the Securities Act in accordance with the registration rights agreements or the selling stockholders will be entitled to contribution. We may be indemnified by the selling stockholders against civil liabilities, including liabilities under the Securities Act that may arise from any written information furnished to us by the selling stockholder specifically for use in this prospectus, in accordance with the related registration rights agreements or we may be entitled to contribution.

Once sold under the registration statement, of which this prospectus forms a part, the shares of common stock will be freely tradable in the hands of persons other than our affiliates.

Exhibit 10.3

ASSET PURCHASE AND LICENSE AGREEMENT

THIS ASSET PURCHASE AND LICENSE AGREEMENT (this "Agreement") dated as of May 9, 2017 (the "Effective Date"), is entered into between IMPRIMIS PHARMACEUTICALS, INC., a Delaware corporation ("lmprimis"), with a place of business at 12264 El Camino Real, Suite 350, San Diego, California 92130, and ETON PHARMACEUTICALS, INC., a Delaware corporation ("Eton"), with a place of business at 12264 El Camino Real, Suite 350, San Diego, California 92130. The parties hereby agree as follows:

1. Definitions. For the purposes of this Agreement, the following terms shall have the respective meanings set forth below and grammatical variations of such terms shall have corresponding meanings:

1.1 "Affiliate" shall mean, with respect to any Person, any other Person which directly or indirectly controls, is controlled by, or is under common control with, such Person. A Person shall be regarded as in control of another Person if it owns, or directly or indirectly controls, more than fifty percent (50%) of the voting stock or other ownership interest of the other Person, or if it directly or indirectly possesses the power to direct or cause the direction of the management and policies of the other Person by any means whatsoever.

1.2 "Assets" shall mean, collectively, (a) all Technology as of the Effective Date, (b) the Assigned Patent Rights, (c) the Assigned Know-How Rights, and (d) all compositions, formulations, samples, data and information as of the Effective Date regarding the Technology.

1.3 "Assigned Know-How Rights" shall mean Imprimis' rights in all trade secret and other know-how rights as of the Effective Date specific to the Technology.

1.4 "Assigned Patent Rights" shall mean, collectively, (a) all patent applications (including provisional patent applications) listed on Schedule A, together with all divisionals, continuations and continuations-in-part that claim priority to, or common priority with, the foregoing; (b) all patents issuing therefrom (including utility models and design patents and certificates of invention), together with all reissues, renewals, extensions or additions thereof and thereto; and (c) all foreign counterparts with or to any of the foregoing.

1.5 "Confidential Information" shall mean all information and data that (a) is provided by one party to the other party under this Agreement, and (b) if disclosed in writing or other tangible medium is marked or identified as confidential at the time of disclosure to the recipient, is acknowledged at the time of disclosure to be confidential, or otherwise should reasonably be deemed to be confidential. Imprimis' Confidential Information includes, without limitation, embodiments of the Licensed Know-How Rights. Eton's Confidential information includes, without limitation, the Assets. Notwithstanding the foregoing, Confidential Information of a party shall not include that portion of such information and data which, and only to the extent, the recipient can establish by written documentation: (i) is known to the recipient as evidenced by its written records before receipt thereof from the disclosing party, (ii) is disclosed to the recipient free of confidentiality obligations by a third person who has the right to make such disclosure, (iii) is or becomes part of the public domain through no fault of the recipient, or (iv) the recipient can reasonably establish is independently developed by persons on behalf of recipient without access to or use of the information disclosed by the disclosing party.

1.6 "First Commercial Sale" shall mean, with respect to any Product, the first sale of such Product after all applicable marketing and pricing approvals (if any) have been granted by the applicable governing health authority of such country.

1.7 "Licensed Know-How Rights" shall mean Imprimis' rights in all trade secret or other know-how rights as of the Effective Date regarding the Technology, excluding the Assigned Know-How Rights and Assigned Patent Rights.

1.8 "Licensee" shall mean a Third Party to whom Eton or its Affiliate has granted a license, immunity or other right under the Assigned Patent Rights to offer to sell, sell or otherwise commercialize one or more Products, provided such license has not expired or been terminated.

1.9 "Net Licensing Revenues" shall mean, with respect to any Product, the aggregate consideration received by Eton or its Affiliates in connection with the grant by Eton or its Affiliates to a Licensee of a license, immunity or other right under the Assigned Patent Rights to offer to sell, sell or otherwise commercialize such Product, excluding amounts calculated on the sales price of such Product.

1.10 "Net Receipts" shall mean, with respect to any Product, the aggregate of the Net Sales thereof and Net Licensing Revenues therefrom.

1.11 "Net Sales" shall mean, with respect to any Product, the gross sales price for such Product invoiced by Eton, its Licensees or their respective Affiliates to customers who are not Affiliates (or are Affiliates but are the end users of such Product), less (a) credits, allowances, discounts and rebates to, and chargebacks from the account of, such customers; (b) freight and insurance costs in transporting such Product to the extent separately invoiced and included in the gross sales price; (c) cash, quantity and trade discounts, rebates and other price reductions for such Product; (d) sales, use, value-added and other direct taxes for such Product to the extent separately invoiced and included in the gross sales price; (e) customs duties, tariffs, surcharges and other governmental charges incurred in exporting or importing such Product to the extent separately invoiced and included in the gross sales price; and (f) an allowance or uncollectible or bad debts for such Product determined in accordance with generally accepted accounting principles not to exceed 3% of Net Sales of such Product for the applicable quarterly reporting period before giving effect to this subsection (f).

1.12 "Patent Issuance" shall mean issuance of a patent from, claiming priority to, or claiming common priority with, a patent application listed on Schedule A, or any foreign counterpart of the foregoing.

1.13 "Payment Period" shall mean, on a Product-by-Product and country-by-country basis, the period of time equal to the longer of (a) beginning on the date of the First Commercial Sale of such Product in such country and continuing during the term for which a Valid Claim (if such Valid Claim were in an issued patent) in such country remains in effect and would be infringed (if such Valid Claim were in an issued patent owned solely by a Third Party) by the manufacture, use, offer for sale, sale or import of such Product in such country; and (b) fifteen (15) years following the date of the First Commercial Sale of the Product in such country.

1.14 "Person" shall mean any individual, partnership, firm, corporation, association, trust, unincorporated organization or other entity, as well as any syndicate or group of any of the foregoing.

1.15 "Product" shall mean any product, in any form or formulation for injectable administration, comprising synthetic corticotropin.

1.16 "Product Supported Patent Rights" shall mean, collectively, (a) all patent applications hereafter filed anywhere in the world; (b) all patents that have issued or in the future issue from any of the foregoing patent applications, including without limitation utility models, design patents and certificates of invention; and (c) all divisionals, continuations, continuations-in-part, reissues, renewals, extensions or additions to any such patents and patent applications; in each case that use or are supported by data and information derived from the development, manufacture or use of the Product or otherwise from the exploitation of the Technology; provided, however, that Product Supported Patent Rights shall exclude the Assigned Patent Rights.

1.17 "Technology" shall mean, collectively, the Product together with all methods of manufacture or use thereof.

1.18 "Third Party" shall mean any Person other than Imprimis, Eton or their respective Affiliates.

1.19 "Valid Claim" shall mean either (a) a claim of an issued and unexpired patent included within the Assigned Patent Rights, which has not been held permanently revoked, unenforceable or invalid by a decision of a court or other governmental agency of competent jurisdiction, unappealable or unappealed within the time allowed for appeal, and which has not been admitted to be invalid or unenforceable through reissue or disclaimer or otherwise, or (b) a claim of a pending patent application included within the Assigned Patent Rights, which claim was filed in good faith and has not been abandoned or finally disallowed without the possibility of appeal or refiling of such application.

2. Purchase and Sale of the Assets.

2.1 Assets. Subject to the terms and conditions of this Agreement, Eton hereby purchases from Imprimis, and Imprimis hereby sells, conveys, transfers and assigns to Eton, on the Effective Date, all of Imprimis' right, title and interest in and to the Assets. To the extent necessary to comply with applicable privacy laws, Imprimis shall have the right to redact patient identifying information from any data or information transferred to Eton.

2.2 No Assumption of Liabilities. Eton shall not be obligated to assume or perform and is not assuming or performing any liabilities or obligations of Imprimis which relate to Imprimis' ownership of the Assets prior to the Effective Date or otherwise, whether known or unknown, fixed or contingent, certain or uncertain, and regardless of when they are or were asserted, and Imprimis shall remain responsible for such liabilities.

2.3 Transfer Documents. The sale, conveyance, transfer and assignment of the Assets may be further evidenced by the due execution and delivery by the parties of any additional bills of sale, assignment or other title transfer documents and instruments as reasonably requested by Eton evidencing the sale, conveyance, transfer and assignment of the Assets in accordance with this Agreement.

3. License Grants.

3.1 License to Eton.

3.1.1 Subject to the terms and conditions of this Agreement, Imprimis hereby grants to Eton a non-exclusive, irrevocable, perpetual, non-transferable (except in connection with a permitted assignment of this Agreement), worldwide license under the Licensed Know-How Rights to develop, make, have made, use, offer for sale, sell, and import one or more Products.

3.1.2 Eton shall have the right to grant sublicenses, through multiple tiers, to Third Parties and Affiliates for the purpose of developing, manufacturing, seeking regulatory approval for, or commercializing any Product. Any such sublicense shall be subject and subordinate to the terms and conditions of this Agreement.

3.2 Grantback License.

3.2.l Subject to the terms and conditions of this Agreement, Eton hereby grants to Imprimis a non-exclusive, irrevocable, perpetual, non-transferable (except in connection with a permitted assignment of this Agreement), worldwide license under the Product Supported Patent Rights for all uses, other than to develop, make, have made, use, offer for sale, sell, and import one or more Products.

3.2.2 Imprimis shall have the right to grant sublicenses, through multiple tiers, to Third Parties and Affiliates.

3.3 No Implied Licenses. Only licenses and rights expressly granted herein shall be of legal force and effect. No license or other right shall be created hereunder by implication, estoppel, or otherwise.

4. Representations and Warranties.

4.1 Mutual Representations and Warranties. Each party represents and warrants to the other party as follows:

4.1.1 Organization. Such party is duly organized, validly existing and in good standing under the laws of the jurisdiction in which it is organized.

4.1.2 Authorization and Enforcement of Obligations. Such party (a) has the requisite power and authority and the legal right to enter into this Agreement and to perform its obligations hereunder; and (b) has taken all requisite action on its part to authorize the execution and delivery of this Agreement and the performance of its obligations hereunder. This Agreement has been duly executed and delivered on behalf of such party, and constitutes a legal, valid, binding obligation, enforceable against such party in accordance with its terms.

4.1.3 Consents. All necessary consents, approvals and authorizations of all governmental authorities and other persons or entities required to be obtained by such party in connection with this Agreement have been obtained.

4.1.4 No Conflict. The execution and delivery of this Agreement and the performance of such party's obligations hereunder (a) do not conflict with or violate any requirement of applicable laws, regulations or orders of governmental bodies; and (b) do not conflict with, or constitute a default under, any contractual obligation of such party.

4.2 DISCLAIMER OF WARRANTIES. EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN SECTION 4.1, NEITHER PARTY MAKES ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, REGARDING THE ASSETS, LICENSED KNOW-HOW RIGHTS, OR ANY OTHER MATTER, INCLUDING WITHOUT LIMITATION, ANY REPRESENTATION OR WARRANTY REGARDING VALIDITY, ENFORCEABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT. THE ASSETS AND LICENSED KNOW-HOW RIGHTS ARE PROVIDED "AS IS."

5. Financial Terms.

5.1 Milestone Payment. Within thirty (30) days following the first Patent Issuance, Eton shall give written notice to Imprimis and shall pay to Imprimis a non-refundable and noncreditable payment of fifty thousand dollars ($50,000).

5.2 Net Receipts Payments.

5.2.1 Net Receipts Payment Amounts.

(a) Payment Amount. Subject to the provisions in this Section 5.2.1, on a Product-by-Product and country-by-country basis, Eton shall pay to Imprimis, on a quarterly basis, six percent (6%) of Net Receipts during the applicable Payment Period (the " Payment Amount"); provided, however, if, during the applicable Payment Period, the manufacture, use, offer for sale, sale, or import of such Product in a particular country would not infringe a Valid Claim (if such Valid Claim were in an issued patent owned solely by a Third Party), then the applicable Payment Amount with respect to such Product in such country shall be reduced by one-half(½).

(b) Discounts. If Eton, its Licensees or their respective Affiliates sells the Product to a Third Party who also purchases other products or services from Eton, its Licensees or their respective Affiliates, and Eton, its Licensees or their respective Affiliates discounts the purchase price of the Product to a greater degree than it generally discounts the price of its other products or services to such customer, then in such case the Net Sales for the sale of the Product to such Third Party shall equal the arm's length price that Third Parties would generally pay for the Product alone when not purchasing any other product or service from Eton, its Licensee or their respective Affiliates. For purposes of this provision, "discounting" includes establishing the list price at a lower-than-normal level.

(c) Incentives. If Eton, its Licensees or their respective Affiliates sells the Product to a Third Party who also purchases other products or services from Eton, its Licensees or their respective Affiliates during the same period pursuant to a pharmacy, performance or other incentive program, a disease management or similar program, or any other discount, chargeback or credit program for products or services purchased, then for purposes of calculating Net Sales of the Product hereunder for such period, all discounts, chargebacks, credits and the like for such Third Party shall be allocated in proportion to the respective list prices of all products or services sold to such Third Party during such period.

5.2.2 Reports and Net Receipts Payments. Within sixty (60) days after the end of each calendar quarter during the applicable Payment Period, Eton shall deliver to Imprimis a report setting forth for such calendar quarter (a) the calculation of the applicable Payment Amount; (b) the payments due under this Agreement for the sale of each Product; and (c) the applicable exchange rate as determined below. Eton shall remit the total payments due for the sale of Products during such calendar quarter at the time such report is made. No such reports or payments shall be due for any Product before the First Commercial Sale of such Product. With respect to Net Receipts received in United States dollars, all amounts shall be expressed in United States dollars. With respect to Net Receipts received in a currency other than United States dollars, all amounts shall be expressed both in the currency in which the amount is invoiced (or received as applicable) and in the United States dollar equivalent. The United States dollar equivalent shall be calculated using the average of the exchange rate (local currency per US$1) published in The Wall Street Journal, Western Edition, under the heading "Currency Trading" on the last business day of each month during the applicable calendar quarter.

5.3 Payment Provisions.

5.3.1 Payment Method. All payments by Eton to Imprimis hereunder shall be in United States dollars in immediately available funds and shall be made by wire transfer from a United States bank located in the United States to such bank account as designated from time to time by Imprimis to Eton.

5.3.2 Payment Terms. The Payment Amount shown to have accrued by each report provided for under Section 5.2.2 shall be due on the date such report is due. Payment of Payment Amount in whole or in part may be made in advance of such due date.

5.3.3 Withholding Taxes. Eton shall be entitled to deduct the amount of any withholding taxes, value-added taxes or other taxes, levies or charges with respect to such amounts, other than United States taxes, payable by Eton, its Licensees or their respective Affiliates, or any taxes required to be withheld by Eton, its Licensees or their respective Affiliates, to the extent Eton, its Licensees or their respective Affiliates pay to the appropriate governmental authority on behalf of Imprimis such taxes, levies or charges. Eton shall use reasonable efforts to minimize any such taxes, levies or charges required to be withheld on behalf of Imprimis by Eton, its Licensees or their respective Affiliates. Eton promptly shall deliver to Imprimis proof of payment of all such taxes, levies and other charges, together with copies of all communications from or with such governmental authority with respect thereto.

5.4 Audits. Upon the written request of Imprimis and not more than once in each calendar year, Eton shall permit an independent certified public accounting firm selected by Imprimis and reasonably acceptable to Eton, at Imprimis' expense, to have access during normal business hours to such of the financial records of Imprimis as may be reasonably necessary to verify the accuracy of the Payment Amount reports hereunder for the eight (8) calendar quarters immediately prior to the date of such request. If such accounting firm concludes that additional amounts were owed during the audited period, Eton shall pay such additional amounts within thirty (30) days after the date Imprimis delivers to Eton such accounting firm's written report so concluding. The fees charged by such accounting firm shall be paid by Imprimis; provided, however, if the audit discloses that the Payment Amount payable by Eton for such period are more than one hundred five percent (105%) of the Payment Amount actually paid for such period, then Eton shall pay the fees and expenses charged by such accounting firm. Imprimis shall cause its accounting firm to retain all financial information subject to review under this Section 5.4 in strict confidence. Imprimis shall treat all such financial information as Eton's confidential information, and shall not disclose such financial information to any Third Party or use it for any purpose other than as specified in this Section 5.4.

5.5 Survival. This Section 5 shall survive the expiration or termination of this Agreement and shall only terminate upon the expiration of the Payment Period and all payment obligations.

6. Post-Effective Date Covenants.

6.1 Eton Diligence.

6.1.1 Eton shall use commercially reasonable efforts (whether alone or with or through its Licensees and its or their respective Affiliates) to research, develop and commercialize Products.

6.1.2 Eton shall control, at its sole expense, the preparation, filing, prosecution, maintenance and enforcement of the Assigned Patent Rights consistent with prudent business practices, and shall consider in good faith the interests of Imprimis.

6.2 Imprimis Covenants.

6.2.1 Within thirty (30) days after the Effective Date, Imprimis shall transfer to Eton all tangible embodiments of the Technology in the possession and control of Imprimis.

6.2.2 Imprimis shall provide cooperation reasonably requested by Eton in connection with Eton's efforts to establish, perfect, defend, or enforce its rights in or to the Assets (including without limitation the Assigned Patent Rights). Such cooperation shall include, without limitation, (a) executing such further assignments, transfers, licenses, releases and consents, and (b) providing such data and information, consulting with Eton and executing and delivering all such further documents and instruments, in each case as reasonably requested by Eton regarding the Assets (including without limitation the Assigned Patent Rights).

7. Indemnification.

7.1 Indemnification of Eton. Subject to the provisions of this Section 7, Imprimis shall indemnify, defend and hold harmless Eton, its officers, directors, affiliates, agents, stockholders and representatives (collectively, the "Eton **Indemnitees"),** from and against any and all losses, liabilities, damages and expenses (including without limitation reasonable attorneys' fees and costs) incurred as a result of any claim, demand, action or proceeding by any Third Party (collectively, "Losses") incurred or suffered by an Eton Indemnitee to the extent arising out of:

7.1.1 any breach of the representations and warranties of Imprimis set forth in this Agreement;

7.1.2 any breach of any covenant or agreement of Imprimis set forth in this Agreement or in any certificate, instrument, or other document delivered pursuant to this Agreement; and

7.1.3 the ownership or exploitation of the Assets prior to the Effective Date or any liability or obligation whatsoever of Imprimis.

7.2 Indemnification of Imprimis. Subject to the provisions of this Section 7, Eton shall indemnify and hold harmless Imprimis, its officers, directors, affiliates, agents, stockholders and representatives (collectively, the "Imprimis Indemnitees"), from and against any and all Losses incurred or suffered by an Imprimis Indemnitee to the extent arising out of:

7.2.1 any breach of the representations and warranties of Eton set forth in this Agreement;

7.2.2 any breach of any covenant or agreement of Eton set forth in this Agreement or in any certificate, instrument, or other document delivered pursuant to this Agreement;

7.2.3 the ownership or exploitation of the Assets after the Effective Date or the manufacture, use, or sale of any Product solely by Eton, its Licensees or their respective Affiliates or the use of any Product by their customers.

7.3 Procedure. A party seeking indemnification (the "Indemnitee") shall promptly notify the other party (the "Indemnifying Party") in writing of a claim or suit; provided that an Indemnitee's failure to give such notice or delay in giving such notice shall not affect such Indemnitee's right to indemnification under this Section 7 except to the extent that the Indemnifying Party has been prejudiced by such failure or delay. The Indemnifying Party shall have the right to control the defense of all indemnification claims hereunder. The Indemnitee shall have the right to participate at its own expense in the claim or suit with counsel of its own choosing. The Indemnifying Party shall consult with the Indemnitee in good faith with respect to all non-privileged aspects of the defense strategy. The Indemnitee shall cooperate with the Indemnifying Party as reasonably requested, at the Indemnifying Party's sole cost and expense. The Indemnifying Party shall not settle any claim or suit without the Indemnitee's prior written consent, which consent shall not be unreasonably withheld.

8. Confidentiality.

8.1 Confidential Information. During the term of this Agreement, and for a period of five (5) years following the expiration or earlier termination hereof, except as otherwise provided in this Section 8, each party shall maintain in confidence the Confidential Information of the other party except as expressly permitted herein, and shall not use, disclose or grant the use of the Confidential Information except on a need-to-know basis to those directors, officers, employees and contractors, to the extent such disclosure is reasonably necessary in connection with performing its obligations or exercising its rights under this Agreement. To the extent that disclosure by a party is authorized by this Agreement, prior to disclosure, such party shall obtain agreement of any such Person to hold in confidence and not make use of the Confidential Information for any purpose other than those permitted by this Agreement.

8.2 Terms of this Agreement. Neither party shall disclose any terms or conditions of this Agreement to any Third Party without the prior consent of the other party; provided, however, that a party may disclose the terms or conditions of this Agreement, (a) on a need-to-know basis to its legal and financial advisors to the extent such disclosure is reasonably necessary, and (b) to a third party in connection with (i) an equity investment in such party, (ii) a merger, consolidation or similar transaction by such party, (iii) a permitted sublicense under this Agreement, or (iv) the sale of all or substantially all of the assets of such party. Notwithstanding the foregoing, prior to execution of this Agreement, the parties have agreed upon the substance of information that can be used to describe the terms of this transaction, and each party may disclose such information, as modified by mutual agreement from time to time, without the other party's consent.

8.3 Permitted Disclosures. The confidentiality obligations contained in this Section 8 shall not apply to the extent that a party is required (i) in the reasonable opinion of such party's legal counsel, to disclose information by applicable law, regulation, rule (including rule of a stock exchange or automated quotation system), order of a governmental agency or a court of competent jurisdiction or legal process, including tax authorities, or (ii) to disclose information to any governmental agency for purposes of obtaining approval to test or market a product, provided in either case that, to the extent practicable, such party shall provide written notice thereof to the other party and sufficient opportunity to object to any such disclosure or to request confidential treatment.

8.4 Injunctive Relief. Each party acknowledges that it will be impossible to measure in money the damage to the other party if such party fails to comply with the obligations imposed by this Section 8, and that, in the event of any such failure, the other party may not have an adequate remedy at law or in damages. Accordingly, each party agrees that injunctive relief or other equitable remedy, in addition to remedies at law or damages, is an appropriate remedy for any such failure and shall not oppose the granting of such relief on the basis that the disclosing party has an adequate remedy at law. Each party agrees that it shall not seek, and agrees to waive any requirement for, the securing or posting of a bond in connection with the other party seeking or obtaining such equitable relief.

9. Term, Expiration, and Condition Precedent.

9.1 Term. The term of this Agreement shall commence on the Effective Date and shall continue until expiration of all payment obligations hereunder.

9.2 Effect of Expiration. Expiration of this Agreement shall be without prejudice to any rights which shall have accrued to the benefit of any party prior to such expiration. Without limiting the foregoing, Sections 1, 3, 5, 7, 8, 9, and 10 shall survive any expiration of this Agreement.

9.3 Condition Precedent. Notwithstanding anything to the contrary herein, the effectiveness of this Agreement is conditioned upon Eton having received net proceeds of the sale of its equity securities to Third Parties of not less than ten million dollars ($10,000,000.00) in cash, whether individually or in the aggregate, within ninety (90) days after the Effective Date. If Eton fails to satisfy such condition precedent, then unless such condition precedent is expressly waived or modified in writing by Imprimis, this Agreement shall be null and void ab initio.

10. Miscellaneous.

10.1 Assignment. Neither party shall assign its rights or obligations under this Agreement without the prior written consent of the other party; provided, however, that a party may, without such consent, assign this Agreement and its rights and obligations hereunder (a) to any Affiliate, or (b) in connection with the transfer or sale of all or substantially all of its business to which this Agreement relates, or in the event of its merger, consolidation, change in control or similar transaction. Any permitted assignee shall assume all obligations of its assignor under this Agreement. Any purported assignment in violation of this Section 10.1 shall be void.

10.2 Severability. Any provision of this Agreement which is illegal, invalid or unenforceable shall be ineffective to the extent of such illegality, invalidity or unenforceability, without affecting in any way the remaining provisions hereof.

10.3 Governing Law; Exclusive Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the State of California, without regard to the conflicts of law principles thereof. Each of the parties hereto irrevocably consents to the exclusive jurisdiction and venue of any federal court located in the Southern District of the State of California or state court in San Diego, California having jurisdiction, in connection with any matter based upon or arising out of this Agreement or the matters contemplated herein, agrees that process may be served upon them in any manner authorized by laws of the State of California for such persons and waives and covenants not to assert or plead any objection which they might otherwise have to such jurisdiction, venue and such process.

10.4 Entire Agreement; Amendment. This Agreement, together with the Schedule A hereto, and each additional document, instrument or other agreement to be executed and delivered pursuant hereto constitute all of the agreements of the parties with respect to, and supersede all prior agreements and understandings relating to the subject matter of, this Agreement or the transactions contemplated by this Agreement. This Agreement may not be modified or amended except by a written instrument specifically referring to this Agreement signed by the parties hereto.

10.5 Waiver. No waiver by one party of the other party's obligations, or of any breach or default hereunder by any other party, shall be valid or effective, unless such waiver is set forth in writing and is signed by the party giving such waiver; and no such waiver shall be deemed a waiver of any subsequent breach or default of the same or similar nature or any other breach or default by such other party.

10.6 Notices. Any consent, notice or report required or permitted to be given or made under this Agreement by a party to the other party shall be in writing, delivered by any lawful means to such other party at its address indicated below, or to such other address as the addressee shall have last furnished in writing to the addressor and (except as otherwise provided in this Agreement) shall be effective upon receipt by the addressee.

If to Imprimis: Imprimis Pharmaceuticals, Inc.
12264 El Camino Real, Suite 350
San Diego, California 92130
Attention: Chief Executive Officer

If to Eton: Eton Pharmaceuticals, Inc.
12264 El Camino Real, Suite 350
San Diego, California 92130
Attention: Executive Director

10.7 Counterparts. This Agreement may be executed in separate counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, each party has caused a duly authorized representative to execute this Agreement as of the date first written above.

IMPRIMIS PHARMACEUTICALS, INC.

By: */s/ Mark L. Baum*
Name: Mark L. Baum
Title: Chief Executive Officer

ETON PHARMACEUTICALS, INC.

By: */s/ Andrew R. Boll*
Name: Andrew R. Boll
Title: Executive Director

[Signature Page to Asset Purchase and License Agreement]

Exhibit 10.4

ASSET PURCHASE AND LICENSE AGREEMENT

THIS ASSET PURCHASE AND LICENSE AGREEMENT (this "Agreement") dated as of May 9, 2017 (the "Effective Date"), is entered into between IMPRIMIS PHARMACEUTICALS, INC., a Delaware corporation ("Imprimis"), with a place of business at 12264 El Camino Real, Suite 350, San Diego, California 92130, and ETON PHARMACEUTICALS, INC., a Delaware corporation ("Eton"), with a place of business at 12264 El Camino Real, Suite 350, San Diego, California 92130. The parties hereby agree as follows:

1. Definitions. For the purposes of this Agreement, the following terms shall have the respective meanings set forth below and grammatical variations of such terms shall have corresponding meanings:

1.1 "Affiliate" shall mean, with respect to any Person, any other Person which directly or indirectly controls, is controlled by, or is under common control with, such Person. A Person shall be regarded as in control of another Person if it owns, or directly or indirectly controls, more than fifty percent (50%) of the voting stock or other ownership interest of the other Person, or if it directly or indirectly possesses the power to direct or cause the direction of the management and policies of the other Person by any means whatsoever.

1.2 "Assets" shall mean, collectively, (a) all Technology as of the Effective Date, (b) the Assigned Patent Rights, (c) the Assigned Know-How Rights, and (d) all compositions, formulations, samples, data and information as of the Effective Date regarding the Technology.

1.3 "Assigned Know-How Rights" shall mean Imprimis' rights in all trade secret and other know-how rights as of the Effective Date specific to the Technology.

1.4 "Assigned Patent Rights" shall mean, collectively, (a) all patent applications (including provisional patent applications) listed on Schedule A, together with all divisionals, continuations and continuations-in-part that claim priority to, or common priority with, the foregoing; (b) all patents issuing therefrom (including utility models and design patents and certificates of invention), together with all reissues, renewals, extensions or additions thereof and thereto; and (c) all foreign counterparts with or to any of the foregoing.

1.5 "Confidential Information" shall mean all information and data that (a) is provided by one party to the other party under this Agreement, and (b) if disclosed in writing or other tangible medium is marked or identified as confidential at the time of disclosure to the recipient, is acknowledged at the time of disclosure to be confidential, or otherwise should reasonably be deemed to be confidential. Imprimis' Confidential Information includes, without limitation, embodiments of the Licensed Know-How Rights. Eton's Confidential information includes, without limitation, the Assets. Notwithstanding the foregoing, Confidential Information of a party shall not include that portion of such information and data which, and only to the extent, the recipient can establish by written documentation: (i) is known to the recipient as evidenced by its written records before receipt thereof from the disclosing party, (ii) is disclosed to the recipient free of confidentiality obligations by a third person who has the right to make such disclosure, (iii) is or becomes part of the public domain through no fault of the recipient, or (iv) the recipient can reasonably establish is independently developed by persons on behalf of recipient without access to or use of the information disclosed by the disclosing party.

1.6 "First Commercial Sale" shall mean, with respect to any Product, the first sale of such Product after all applicable marketing and pricing approvals (if any) have been granted by the applicable governing health authority of such country.

1.7 "Licensed Know-How Rights" shall mean Imprimis' rights in all trade secret or other know-how rights as of the Effective Date regarding the Technology, excluding the Assigned Know-How Rights and Assigned Patent Rights.

1.8 "Licensee" shall mean a Third Party to whom Eton or its Affiliate has granted a license, immunity or other right under the Assigned Patent Rights to offer to sell, sell or otherwise commercialize one or more Products, provided such license has not expired or been terminated.

1.9 "Net Licensing Revenues" shall mean, with respect to any Product, the aggregate consideration received by Eton or its Affiliates in connection with the grant by Eton or its Affiliates to a Licensee of a license, immunity or other right under the Assigned Patent Rights to offer to sell, sell or otherwise commercialize such Product, excluding amounts calculated on the sales price of such Product.

1.10 "Net Receipts" shall mean, with respect to any Product, the aggregate of the Net Sales thereof and Net Licensing Revenues therefrom.

1.11 "Net Sales" shall mean, with respect to any Product, the gross sales price for such Product invoiced by Eton, its Licensees or their respective Affiliates to customers who are not Affiliates (or are Affiliates but are the end users of such Product), less (a) credits, allowances, discounts and rebates to, and chargebacks from the account of, such customers; (b) freight and insurance costs in transporting such Product to the extent separately invoiced and included in the gross sales price; (c) cash, quantity and trade discounts, rebates and other price reductions for such Product; (d) sales, use, value-added and other direct taxes for such Product to the extent separately invoiced and included in the gross sales price; (e) customs duties, tariffs, surcharges and other governmental charges incurred in exporting or importing such Product to the extent separately invoiced and included in the gross sales price; and (f) an allowance for uncollectible or bad debts for such Product determined in accordance with generally accepted accounting principles not to exceed 3% of Net Sales of such Product for the applicable quarterly reporting period before giving effect to this subsection (f).

1.12 "Patent Issuance" shall mean issuance of a patent from, claiming priority to, or claiming common priority with, a patent application listed on Schedule A, or any foreign counterpart of the foregoing.

1.13 "Payment Period" shall mean, on a Product-by-Product and country-by-country basis, the period of time equal to the longer of (a) beginning on the date of the First Commercial Sale of such Product in such country and continuing during the term for which a Valid Claim (if such Valid Claim were in an issued patent) in such country remains in effect and would be infringed (if such Valid Claim were in an issued patent owned solely by a Third Party) by the manufacture, use, offer for sale, sale or import of such Product in such country; and (b) fifteen (15) years following the date of the First Commercial Sale of the Product in such country.

1.14 "Person" shall mean any individual, partnership, firm, corporation, association, trust, unincorporated organization or other entity, as well as any syndicate or group of any of the foregoing.

1.15 "Product" shall mean any product, in any form or formulation for injectable administration, comprising pentoxifylline.

1.16 "Product Supported Patent Rights" shall mean, collectively, (a) all patent applications hereafter filed anywhere in the world; (b) all patents that have issued or in the future issue from any of the foregoing patent applications, including without limitation utility models, design patents and certificates of invention; and (c) all divisionals, continuations, continuations-in-part, reissues, renewals, extensions or additions to any such patents and patent applications; in each case that use or are supported by data and information derived from the development, manufacture or use of the Product or otherwise from the exploitation of the Technology; provided, however, that Product Supported Patent Rights shall exclude the Assigned Patent Rights.

1.17 "Technology" shall mean, collectively, the Product together with all methods of manufacture or use thereof.

1.18 "Third Party" shall mean any Person other than Imprimis, Eton or their respective Affiliates.

1.19 "Valid Claim" shall mean either (a) a claim of an issued and unexpired patent included within the Assigned Patent Rights, which has not been held permanently revoked, unenforceable or invalid by a decision of a court or other governmental agency of competent jurisdiction, unappealable or unappealed within the time allowed for appeal, and which has not been admitted to be invalid or unenforceable through reissue or disclaimer or otherwise, or (b) a claim of a pending patent application included within the Assigned Patent Rights, which claim was filed in good faith and has not been abandoned or finally disallowed without the possibility of appeal or refiling of such application.

2. Purchase and Sale of the Assets.

2.1 Assets. Subject to the terms and conditions of this Agreement, Eton hereby purchases from Imprimis, and Imprimis hereby sells, conveys, transfers and assigns to Eton, on the Effective Date, all of Imprimis' right, title and interest in and to the Assets. To the extent necessary to comply with applicable privacy laws, Imprimis shall have the right to redact patient identifying information from any data or information transferred to Eton.

2.2 No Assumption of Liabilities. Eton shall not be obligated to assume or perform and is not assuming or performing any liabilities or obligations of Imprimis which relate to Imprimis' ownership of the Assets prior to the Effective Date or otherwise, whether known or unknown, fixed or contingent, certain or uncertain, and regardless of when they are or were asserted, and Imprimis shall remain responsible for such liabilities.

2.3 Transfer Documents. The sale, conveyance, transfer and assignment of the Assets may be further evidenced by the due execution and delivery by the parties of any additional bills of sale, assignment or other title transfer documents and instruments as reasonably requested by Eton evidencing the sale, conveyance, transfer and assignment of the Assets in accordance with this Agreement.

3. License Grants.

3.1 License to Eton.

3.1.1 Subject to the terms and conditions of this Agreement, Imprimis hereby grants to Eton a non-exclusive, irrevocable, perpetual, non-transferable (except in connection with a permitted assignment of this Agreement), worldwide license under the Licensed Know-How Rights to develop, make, have made, use, offer for sale, sell, and import one or more Products.

3.1.2 Eton shall have the right to grant sublicenses, through multiple tiers, to Third Parties and Affiliates for the purpose of developing, manufacturing, seeking regulatory approval for, or commercializing any Product. Any such sublicense shall be subject and subordinate to the terms and conditions of this Agreement.

3.2 Grantback License.

3.2.1 Subject to the terms and conditions of this Agreement, Eton hereby grants to Imprimis a non-exclusive, irrevocable, perpetual, non-transferable (except in connection with a permitted assignment of this Agreement), worldwide license under the Product Supported Patent Rights for all uses, other than to develop, make, have made, use, offer for sale, sell, and import one or more Products.

3.2.2 Imprimis shall have the right to grant sublicenses, through multiple tiers, to Third Parties and Affiliates.

3.3 No Implied Licenses. Only licenses and rights expressly granted herein shall be of legal force and effect. No license or other right shall be created hereunder by implication, estoppel, or otherwise.

4. Representations and Warranties.

4.1 Mutual Representations and Warranties. Each party represents and warrants to the other party as follows:

4.1.1 Organization. Such party is duly organized, validly existing and in good standing under the laws of the jurisdiction in which it is organized.

4.1.2 Authorization and Enforcement of Obligations. Such party (a) has the requisite power and authority and the legal right to enter into this Agreement and to perform its obligations hereunder; and (b) has taken all requisite action on its part to authorize the execution and delivery of this Agreement and the performance of its obligations hereunder. This Agreement has been duly executed and delivered on behalf of such party, and constitutes a legal, valid, binding obligation, enforceable against such party in accordance with its terms.

4.1.3 Consents. All necessary consents, approvals and authorizations of all governmental authorities and other persons or entities required to be obtained by such party in connection with this Agreement have been obtained.

4.1.4 No Conflict. The execution and delivery of this Agreement and the performance of such party's obligations hereunder (a) do not conflict with or violate any requirement of applicable laws, regulations or orders of governmental bodies; and (b) do not conflict with, or constitute a default under, any contractual obligation of such party.

4.2 DISCLAIMER OF WARRANTIES. EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN SECTION 4.1, NEITHER PARTY MAKES ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, REGARDING THE ASSETS, LICENSED KNOW-HOW RIGHTS, OR ANY OTHER MATTER, INCLUDING WITHOUT LIMITATION, ANY REPRESENTATION OR WARRANTY REGARDING VALIDITY, ENFORCEABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT. THE ASSETS AND LICENSED KNOW-HOW RIGHTS ARE PROVIDED "AS IS."

5. Financial Terms.

5.1 Milestone Payment. Within thirty (30) days following the first Patent Issuance, Eton shall give written notice to Imprimis and shall pay to Imprimis a non-refundable and noncreditable payment of fifty thousand dollars ($50,000).

5.2 Net Receipts Payments.

5.2.1 Net Receipts Payment Amounts.

(a) Payment Amount. Subject to the provisions in this Section 5.2.1, on a Product-by-Product and country-by-country basis, Eton shall pay to Imprimis, on a quarterly basis, six percent (6%) of Net Receipts during the applicable Payment Period (the "Payment Amount"); provided, however, if, during the applicable Payment Period, the manufacture, use, offer for sale, sale, or import of such Product in a particular country would not infringe a Valid Claim (if such Valid Claim were in an issued patent owned solely by a Third Party), then the applicable Payment Amount with respect to such Product in such country shall be reduced by one-half(½).

(b) Discounts. If Eton, its Licensees or their respective Affiliates sells the Product to a Third Party who also purchases other products or services from Eton, its Licensees or their respective Affiliates, and Eton, its Licensees or their respective Affiliates discounts the purchase price of the Product to a greater degree than it generally discounts the price of its other products or services to such customer, then in such case the Net Sales for the sale of the Product to such Third Party shall equal the arm's length price that Third Parties would generally pay for the Product alone when not purchasing any other product or service from Eton, its Licensee or their respective Affiliates. For purposes of this provision, "discounting" includes establishing the list price at a lower-than-normal level.

(c) Incentives. If Eton, its Licensees or their respective Affiliates sells the Product to a Third Party who also purchases other products or services from Eton, its Licensees or their respective Affiliates during the same period pursuant to a pharmacy, performance or other incentive program, a disease management or similar program, or any other discount, chargeback or credit program for products or services purchased, then for purposes of calculating Net Sales of the Product hereunder for such period, all discounts, chargebacks, credits and the like for such Third Party shall be allocated in proportion to the respective list prices of all products or services sold to such Third Party during such period.

5.2.2 Reports and Net Receipts Payments. Within sixty (60) days after the end of each calendar quarter during the applicable Payment Period, Eton shall deliver to Imprimis a report setting forth for such calendar quarter (a) the calculation of the applicable Payment Amount; (b) the payments due under this Agreement for the sale of each Product; and (c) the applicable exchange rate as determined below. Eton shall remit the total payments due for the sale of Products during such calendar quarter at the time such report is made. No such reports or payments shall be due for any Product before the First Commercial Sale of such Product. With respect to Net Receipts received in United States dollars, all amounts shall be expressed in United States dollars. With respect to Net Receipts received in a currency other than United States dollars, all amounts shall be expressed both in the currency in which the amount is invoiced (or received as applicable) and in the United States dollar equivalent. The United States dollar equivalent shall be calculated using the average of the exchange rate (local currency per US$1) published in The Wall Street Journal, Western Edition, under the heading "Currency Trading" on the last business day of each month during the applicable calendar quarter.

5.3 Payment Provisions.

5.3.1 Payment Method. All payments by Eton to Imprimis hereunder shall be in United States dollars in immediately available funds and shall be made by wire transfer from a United States bank located in the United States to such bank account as designated from time to time by Imprimis to Eton.

5.3.2 Payment Terms. The Payment Amount shown to have accrued by each report provided for under Section 5.2.2 shall be due on the date such report is due. Payment of Payment Amount in whole or in part may be made in advance of such due date.

5.3.3 Withholding Taxes. Eton shall be entitled to deduct the amount of any withholding taxes, value-added taxes or other taxes, levies or charges with respect to such amounts, other than United States taxes, payable by Eton, its Licensees or their respective Affiliates, or any taxes required to be withheld by Eton, its Licensees or their respective Affiliates, to the extent Eton, its Licensees or their respective Affiliates pay to the appropriate governmental authority on behalf of Imprimis such taxes, levies or charges. Eton shall use reasonable efforts to minimize any such taxes, levies or charges required to be withheld on behalf of Imprimis by Eton, its Licensees or their respective Affiliates. Eton promptly shall deliver to Imprimis proof of payment of all such taxes, levies and other charges, together with copies of all communications from or with such governmental authority with respect thereto.

5.4 Audits. Upon the written request of Imprimis and not more than once in each calendar year, Eton shall permit an independent certified public accounting firm selected by Imprimis and reasonably acceptable to Eton, at Imprimis' expense, to have access during normal business hours to such of the financial records of Imprimis as may be reasonably necessary to verify the accuracy of the Payment Amount reports hereunder for the eight (8) calendar quarters immediately prior to the date of such request. If such accounting firm concludes that additional amounts were owed during the audited period, Eton shall pay such additional amounts within thirty (30) days after the date Imprimis delivers to Eton such accounting firm's written report so concluding. The fees charged by such accounting firm shall be paid by Imprimis; provided, however, if the audit discloses that the Payment Amount payable by Eton for such period are more than one hundred five percent (105%) of the Payment Amount actually paid for such period, then Eton shall pay the fees and expenses charged by such accounting firm. Imprimis shall cause its accounting firm to retain all financial information subject to review under this Section 5.4 in strict confidence. Imprimis shall treat all such financial information as Eton's confidential information, and shall not disclose such financial information to any Third Party or use it for any purpose other than as specified in this Section 5.4.

5.5 Survival. This Section 5 shall survive the expiration or termination of this Agreement and shall only terminate upon the expiration of the Payment Period and all payment obligations.

6. Post-Effective Date Covenants.

6.1 Eton Diligence.

6.1.1 Eton shall use commercially reasonable efforts (whether alone or with or through its Licensees and its or their respective Affiliates) to research, develop and commercialize Products.

6.1.2 Eton shall control, at its sole expense, the preparation, filing, prosecution, maintenance and enforcement of the Assigned Patent Rights consistent with prudent business practices, and shall consider in good faith the interests of Imprimis.

6.2 Imprimis Coven ants.

6.2.1 Within thirty (30) days after the Effective Date, Imprimis shall transfer to Eton all tangible embodiments of the Technology in the possession and control of Imprimis.

6.2.2 Imprimis shall provide cooperation reasonably requested by Eton in connection with Eton's efforts to establish, perfect, defend, or enforce its rights in or to the Assets (including without limitation the Assigned Patent Rights). Such cooperation shall include, without limitation, (a) executing such further assignments, transfers, licenses, releases and consents, and (b) providing such data and information, consulting with Eton and executing and delivering all such further documents and instruments, in each case as reasonably requested by Eton regarding the Assets (including without limitation the Assigned Patent Rights).

7. Indemnification.

7.1 Indemnification of Eton. Subject to the provisions of this Section 7, Imprimis shall indemnify, defend and hold harmless Eton, its officers, directors, affiliates, agents, stockholders and representatives (collectively, the "Eton Indemnitees"), from and against any and all losses, liabilities, damages and expenses (including without limitation reasonable attorneys' fees and costs) incurred as a result of any claim, demand, action or proceeding by any Third Party (collectively, "Losses") incurred or suffered by an Eton Indemnitee to the extent arising out of:

7.1.1 any breach of the representations and warranties of Imprimis set forth in this Agreement;

7.1.2 any breach of any covenant or agreement of Imprimis set forth in this Agreement or in any certificate, instrument, or other document delivered pursuant to this Agreement; and

7.1.3 the ownership or exploitation of the Assets prior to the Effective Date or any liability or obligation whatsoever of Imprimis.

7.2 Indemnification of Imprimis. Subject to the provisions of this Section 7, Eton shall indemnify and hold harmless Imprimis, its officers, directors, affiliates, agents, stockholders and representatives (collectively, the "Imprimis Indemnitees"), from and against any and all Losses incurred or suffered by an Imprimis Indemnitee to the extent arising out of:

7.2.1 any breach of the representations and warranties of Eton set forth in this Agreement;

7.2.2 any breach of any covenant or agreement of Eton set forth in this Agreement or in any certificate, instrument, or other document delivered pursuant to this Agreement;

7.2.3 the ownership or exploitation of the Assets after the Effective Date or the manufacture, use, or sale of any Product solely by Eton, its Licensees or their respective Affiliates or the use of any Product by their customers.

7.3 Procedure. A party seeking indemnification (the "Indemnitee") shall promptly notify the other party (the "Indemnifying Party") in writing of a claim or suit; provided that an Indemnitee's failure to give such notice or delay in giving such notice shall not affect such Indemnitee's right to indemnification under this Section 7 except to the extent that the Indemnifying Party has been prejudiced by such failure or delay. The Indemnifying Party shall have the right to control the defense of all indemnification claims hereunder. The Indemnitee shall have the right to participate at its own expense in the claim or suit with counsel of its own choosing. The Indemnifying Party shall consult with the Indemnitee in good faith with respect to all non-privileged aspects of the defense strategy. The Indemnitee shall cooperate with the Indemnifying Party as reasonably requested, at the Indemnifying Party's sole cost and expense. The Indemnifying Party shall not settle any claim or suit without the Indemnitee's prior written consent, which consent shall not be unreasonably withheld.

8. Confidentiality.

8.1 Confidential Information. During the term of this Agreement, and for a period of five (5) years following the expiration or earlier termination hereof, except as otherwise provided in this Section 8, each party shall maintain in confidence the Confidential Information of the other party except as expressly permitted herein, and shall not use, disclose or grant the use of the Confidential Information except on a need-to-know basis to those directors, officers, employees and contractors, to the extent such disclosure is reasonably necessary in connection with performing its obligations or exercising its rights under this Agreement. To the extent that disclosure by a party is authorized by this Agreement, prior to disclosure, such party shall obtain agreement of any such Person to hold in confidence and not make use of the Confidential Information for any purpose other than those permitted by this Agreement.

8.2 Terms of this Agreement. Neither party shall disclose any terms or conditions of this Agreement to any Third Party without the prior consent of the other party; provided, however, that a party may disclose the terms or conditions of this Agreement, (a) on a need-to-know basis to its legal and financial advisors to the extent such disclosure is reasonably necessary, and (b) to a third party in connection with (i) an equity investment in such party, (ii) a merger, consolidation or similar transaction by such party, (iii) a permitted sublicense under this Agreement, or (iv) the sale of all or substantially all of the assets of such party. Notwithstanding the foregoing, prior to execution of this Agreement, the parties have agreed upon the substance of information that can be used to describe the terms of this transaction, and each party may disclose such information, as modified by mutual agreement from time to time, without the other party's consent.

8.3 Permitted Disclosures. The confidentiality obligations contained in this Section 8 shall not apply to the extent that a party is required (i) in the reasonable opinion of such party's legal counsel, to disclose information by applicable law, regulation, rule (including rule of a stock exchange or automated quotation system), order of a governmental agency or a court of competent jurisdiction or legal process, including tax authorities, or (ii) to disclose information to any governmental agency for purposes of obtaining approval to test or market a product, provided in either case that, to the extent practicable, such party shall provide written notice thereof to the other party and sufficient opportunity to object to any such disclosure or to request confidential treatment.

8.4 Injunctive Relief. Each party acknowledges that it will be impossible to measure in money the damage to the other party if such party fails to comply with the obligations imposed by this Section 8, and that, in the event of any such failure, the other party may not have an adequate remedy at law or in damages. Accordingly, each party agrees that injunctive relief or other equitable remedy, in addition to remedies at law or damages, is an appropriate remedy for any such failure and shall not oppose the granting of such relief on the basis that the disclosing party has an adequate remedy at law. Each party agrees that it shall not seek, and agrees to waive any requirement for, the securing or posting of a bond in connection with the other party seeking or obtaining such equitable relief.

9. Term, Expiration, and Condition Precedent.

9.1 Term. The term of this Agreement shall commence on the Effective Date and shall continue until expiration of all payment obligations hereunder.

9.2 Effect of Expiration. Expiration of this Agreement shall be without prejudice to any rights which shall have accrued to the benefit of any party prior to such expiration. Without limiting the foregoing, Sections l, 3, 5, 7, 8, 9, and 10 shall survive any expiration of this Agreement.

9.3 Condition Precedent. Notwithstanding anything to the contrary herein, the effectiveness of this Agreement is conditioned upon Eton having received net proceeds of the sale of its equity securities to Third Parties of not less than ten million dollars ($10,000,000.00) in cash, whether individually or in the aggregate, within ninety (90) days after the Effective Date. If Eton fails to satisfy such condition precedent, then unless such condition precedent is expressly waived or modified in writing by Imprimis, this Agreement shall be null and void ab initio.

10. Miscellaneous.

10.1 Assignment. Neither party shall assign its rights or obligations under this Agreement without the prior written consent of the other party; provided, however, that a party may, without such consent, assign this Agreement and its rights and obligations hereunder (a) to any Affiliate, or (b) in connection with the transfer or sale of all or substantially all of its business to which this Agreement relates, or in the event of its merger, consolidation, change in control or similar transaction. Any permitted assignee shall assume all obligations of its assignor under this Agreement. Any purported assignment in violation of this Section 10.1 shall be void.

10.2 Severability. Any provision of this Agreement which is illegal, invalid or unenforceable shall be ineffective to the extent of such illegality, invalidity or unenforceability, without affecting in any way the remaining provisions hereof.

10.3 Governing Law: Exclusive Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the State of California, without regard to the conflicts of law principles thereof. Each of the parties hereto irrevocably consents to the exclusive jurisdiction and venue of any federal court located in the Southern District of the State of California or state court in San Diego, California having jurisdiction, in connection with any matter based upon or arising out of this Agreement or the matters contemplated herein, agrees that process may be served upon them in any manner authorized by laws of the State of California for such persons and waives and covenants not to assert or plead any objection which they might otherwise have to such jurisdiction, venue and such process.

10.4 Entire Agreement: Amendment. This Agreement, together with the Schedule A hereto, and each additional document, instrument or other agreement to be executed and delivered pursuant hereto constitute all of the agreements of the parties with respect to, and supersede all prior agreements and understandings relating to the subject matter of, this Agreement or the transactions contemplated by this Agreement. This Agreement may not be modified or amended except by a written instrument specifically referring to this Agreement signed by the parties hereto.

10.5 Waiver. No waiver by one party of the other party's obligations, or of any breach or default hereunder by any other party, shall be valid or effective, unless such waiver is set forth in writing and is signed by the party giving such waiver; and no such waiver shall be deemed a waiver of any subsequent breach or default of the same or similar nature or any other breach or default by such other party.

10.6 Notices. Any consent, notice or report required or permitted to be given or made under this Agreement by a party to the other party shall be in writing, delivered by any lawful means to such other party at its address indicated below, or to such other address as the addressee shall have last furnished in writing to the addressor and (except as otherwise provided in this Agreement) shall be effective upon receipt by the addressee.

If to Imprimis: Imprimis Pharmaceuticals, Inc.
12264 El Camino Real, Suite 350
San Diego, California 92130
Attention: Chief Executive Officer

If to Eton: Eton Pharmaceuticals, Inc.
12264 El Camino Real, Suite 350
San Diego, California 92130
Attention: Executive Director

10.7 Counterparts. This Agreement may be executed in separate counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, each party has caused a duly authorized representative to execute this Agreement as of the date first written above.

IMPRIMIS PHARMACEUTICALS, INC.

By: */s/ Mark L. Baum*
Name: Mark L. Baum
Title: Chief Executive Officer

ETON PHARMACEUTICALS, INC.

By: */s/ Andrew R. Boll*
Name: Andrew R. Boll
Title: Executive Director

[Signature Page to Asset Purchase and License Agreement]

Exhibit 10.5

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this "Agreement") dated as of the last date provided for on the signature page herein (the "Effective Date"), is entered into between SELENIX LLC, a Virginia limited liability company ("Selenix"), with a place of business at 1640 Roanoke Blvd., Salem, Virginia 24153, and ETON PHARMACEUTICALS, INC., a Delaware corporation ("Eton"), with a place of business at 12264 El Camino Real, Suite 350, San Diego, California 92130. The parties hereby agree as follows:

1. Definitions. For the purposes of this Agreement, the following terms shall have the respective meanings set forth below and grammatical variations of such terms shall have corresponding meanings:

1.1 "Affiliate" shall mean, with respect to any Person, any other Person which directly or indirectly controls, is controlled by, or is under common control with, such Person. A Person shall be regarded as in control of another Person if it owns, or directly or indirectly controls, more than fifty percent (50%) of the voting stock or other ownership interest of the other Person, or if it directly or indirectly possesses the power to direct or cause the direction of the management and policies of the other Person by any means whatsoever.

1.2 "Assets" shall mean, collectively, (a) the Technology; (b) all discoveries, inventions, technology, compositions, formulations, samples, components, processes, standards, methods, procedures and techniques relating thereto; (c) all formulae, data, information, results of experimentation and testing, and other know-how, whether or not patentable or copyrightable, relating thereto; (d) all product registrations and applications therefor relating thereto; (e) all Contracts (as defined in Section 3.7); and (f) all intellectual property rights and other assets relating thereto; in each case, that is owned or controlled by, or is in the possession of Selenix.

1.3 "Encumbrance" or "Encumbrances" shall mean any encumbrance, lien, charge, hypothecation, pledge, mortgage, adverse claim, option, preemptive right, or other security interest of any nature, or any contract, covenant, arrangement, agreement, instrument or commitment to create any of the foregoing.

1.4 "FDA" shall mean the Food and Drug Administration of the United States or any successor thereto.

1.5 "First Commercial Sale" shall mean, with respect to any Product, the first sale of such Product after all applicable marketing and pricing approvals (if any) have been granted by the FDA.

1.6 "GAAP" shall mean United States generally accepted accounting principles.

1.7 “Gross Sales” shall mean the gross sales price of Products invoiced by Eton or its Affiliates to customers who are not Affiliates (or are Affiliates but are the end users of such Product).

1.8 “Knowledge of Selenix” or “Selenix’s Knowledge” shall mean the actual knowledge of any director, officer, or employee of Selenix and the Knowledge such individuals would reasonably be expected to obtain in the course of diligently performing his or her duties for Selenix and/or making a reasonable inquiry into the matters contemplated by this Agreement.

1.9 “Legal Recovery Amount” shall mean all legal costs and expenses (including attorneys’ fees and costs) incurred by Eton or its Affiliates in connection with the development, commercialization, obtaining and maintaining regulatory approvals, or other exploitation or use of the Assets or Product, or the preparation, prosecution, maintenance, enforcement, defense, licensing, commercialization or other exploitation of any intellectual property related thereto.

1.10 “Licensee” shall mean a Third Party to whom Eton or its Affiliate has granted a license, immunity or other right under any intellectual property rights within the Assets to offer to sell, sell or otherwise commercialize one or more Products, provided such license has not expired or been terminated.

1.11 “NDA” shall mean a New Drug Application, or similar application for marketing approval of a Product submitted to the FDA.

1.12 “Net Licensing Revenues” shall mean the aggregate cash consideration received by Eton or its Affiliates in consideration for the grant by Eton or its Affiliates to a Licensee of a license, immunity or other right under any intellectual property rights within the Assets to offer to sell, sell or otherwise commercialize a Product (excluding amounts received to reimburse Eton or its Affiliates for research, development or similar services conducted for Products, in reimbursement of out-of-pocket expenses relating to Products, or in consideration for the purchase of any debt or securities of Eton or its Affiliates).

1.13 “Net Receipts” shall mean the aggregate of Net Sales and Net Licensing Revenues in excess of the Legal Recovery Amount.

1.14 “Net Sales” shall mean the Gross Sales less (a) credits, allowances, discounts and rebates to, and chargebacks from the account of, such customers; (b) freight and insurance costs in transporting Products; (c) cash, quantity and trade discounts, rebates and other price reductions for Products; (d) sales, use, value-added and other direct taxes; (e) customs duties, tariffs, surcharges and other governmental charges incurred in exporting or importing Products; (f) an allowance for uncollectible or bad debts determined in accordance with generally accepted accounting principles; (g) the fully-burdened cost of goods sold determined in accordance with generally accepted accounting principles; and (h) the cost of promotion, marketing, distribution and sales (including applicable sales commissions and related payments), if any.

1.15 "Payment Period" shall mean the period beginning on the Effective Date and ending ten (10) years thereafter.

1.16 "Person" shall mean any individual, partnership, firm, corporation, association, trust, unincorporated organization or other entity, as well as any syndicate or group of any of the foregoing.

1.17 "Product" shall mean any product, in any form or formulation for injectable administration, containing a concentration of *** (equivalent to ***) of *** (***).

1.18 "Tax" or "Taxes" shall mean any and all federal, state, local and foreign taxes, assessments and other governmental charges, duties, impositions and liabilities, including taxes based upon or measured by gross receipts, income, profits, sales, use and occupation, and value added, ad valorem, transfer, franchise, withholding, payroll, recapture, employment, excise and property taxes as well as public imposts, fees and social security charges (including but not limited to health, unemployment and pension insurance), together with all interest, penalties and additions imposed with respect to such amounts and any obligation under any agreement or arrangement with any other Person with respect to such amounts and including any liability for taxes of a predecessor entity.

1.19 "Technology" shall mean, collectively, Product together with all methods of manufacture or use thereof.

1.20 "Third Party" shall mean any Person other than Eton, Selenix or their respective Affiliates.

2. Purchase and Sale of the Assets.

2.1 Assets. Subject to the terms and conditions of this Agreement, Eton hereby agrees to, and hereby does, purchase from Selenix, and Selenix hereby agrees to, and hereby does, sell, convey, transfer and assign to Eton, on the Effective Date, all of Selenix's right, title and interest in and to the Assets. Concurrently with the execution of this Agreement, Selenix shall deliver all required consents to Contracts (as defined in Section 3.7) as set forth on Exhibit A. To the extent necessary to comply with applicable privacy laws, Selenix shall have the right to redact patient identifying information from any data or information transferred to Eton.

2.2 No Assumption of Liabilities. Eton shall not be obligated to assume or perform and is not assuming or performing any liabilities or obligations of Selenix which relate to Selenix's ownership of the Assets prior to the Effective Date or otherwise, whether known or unknown, fixed or contingent, certain or uncertain, and regardless of when they are or were asserted, and Selenix shall remain responsible for and shall promptly pay such liabilities.

***Text has been omitted pursuant to Registrant's confidential treatment request filed with the Securities and Exchange Commission ("Commission") pursuant to Rule 406 under the Securities Act of 1933. The omitted text has been filed separately with the Commission.

2.3 Transfer Documents. At such time as reasonably requested by Eton on or after the Effective Date, Selenix shall duly execute and deliver to Eton such additional bills of sale, assignment or other title transfer documents and instruments as reasonably requested by Eton evidencing the sale, conveyance, transfer and assignment of the Assets in accordance with this Agreement.

3. Representations and Warranties of Selenix. Selenix hereby represents and warrants to Eton, except as indicated on the disclosure schedules attached to this Agreement, as follows:

3.1 Authority and Binding Effect. Selenix has the full power and authority to execute and deliver this Agreement and other documents and instruments contemplated hereby. This Agreement and other documents and instruments contemplated hereby, and the consummation by Selenix of its obligations contained herein and therein, have been duly authorized by all necessary actions of Selenix, and this Agreement and other documents and instruments contemplated hereby have been duly executed and delivered by Selenix. This Agreement and other documents and instruments contemplated hereby are valid and binding agreements of Selenix, enforceable against Selenix in accordance with their respective terms.

3.2 Organization and Standing. Selenix is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Virginia. Selenix is qualified to do business in each jurisdiction where such qualification is necessary. Selenix has the requisite power and authority to conduct its business as now conducted, to own the Assets and to use such Assets in the conduct of its business. Selenix does not have, and has not at any time had, any Affiliates.

3.3 Assets.

3.3.1 Selenix has good and marketable title to each of the Assets, and each of the Assets is in Selenix's possession and held or controlled by Selenix free and clear of any Encumbrances (including any distribution rights and royalty rights). All Assets are and will be fully transferable, alienable or licensable by Eton without restriction and without payment of any kind to any Third Party.

3.3.2 All Assets are currently in compliance with applicable legal requirements and are not subject to any unpaid fees or taxes or actions falling due within ten (10) days after the Effective Date.

3.3.3 To the extent that any Assets were originally owned or created by or for any Person other than Selenix, (a) Selenix has obtained the complete, unencumbered and unrestricted right to effect the transfer of the Assets from Selenix to Eton and confirms that such transfer does not violate any such right to transfer; (b) no Third Parties have retained or otherwise have any rights or licenses with respect to the Assets; and (c) to the Knowledge of Selenix, no valid basis exists for any such Person to challenge or object to this Agreement or the transactions contemplated herein.

3.3.4 Selenix has not transferred ownership of, or granted any license, immunity or other right, or authorized the retention of any rights to any Assets to any Person.

3.3.5 Selenix is not required to make or accrue any royalty, milestone or other similar payment to any Third Party in connection with any of the Assets.

3.3.6 Neither the Assets nor exploitation of the Assets, including development and commercialization of any Product, infringe or misappropriate the intellectual property of any Third Party.

3.3.7 Selenix has taken all reasonable precautions to protect the secrecy, confidentiality and value of all Assets that comprise know-how, trade secrets, confidential or proprietary information, data, process technology and plans.

3.3.8 All data, information, results of experimentation and testing within the Assets are accurate and complete in all respects.

3.4 Conflicts and Consents. The execution and delivery by Selenix of this Agreement and the consummation of the transactions contemplated hereby will not (a) result in the loss or impairment of any of the Assets or (b) conflict with (i) any provision of the charter document or bylaws of Selenix, each as amended to date, (ii) contracts, covenants, arrangements, agreements, instruments, commitments, purchase orders or licenses to which Selenix or any of its properties or assets (including intangible assets) is subject, or (iii) any judgment, order, decree, statute, law, ordinance, rule or regulation applicable to Selenix or any of its properties or assets (tangible and intangible). It is not necessary for Selenix to take any action or to obtain any approval, consent or release by or from any Third Party, governmental or other, to enable Selenix to enter into or perform its obligations under this Agreement.

3.5 Litigation and Proceedings. There is no claim, action, suit, proceeding or investigation (or any counter or cross-claim in an action brought by or on behalf of Selenix), whether at law or in equity, or before or by any governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, or before any arbitrator of any kind, that is pending or, to Selenix's Knowledge, threatened, against Selenix, which (a) could reasonably be expected to adversely affect Selenix's ability to perform its obligations under this Agreement or complete any of the transactions contemplated hereby or (b) involves the possibility of any judgment or liability, or which may become a claim, against the Assets, Eton or its business. Selenix is not subject to any judgment, order, writ, injunction, decree or award of any court, arbitrator or governmental department, commission, board, bureau, agency or instrumentality having jurisdiction over Selenix or any of the Assets that affects, involves or relates to the Assets.

3.6 Compliance with Law/Permits. Selenix is in compliance with all, and is not in violation of any, law, ordinance, order, decree, rule or regulation of any governmental agency or authority, the violation of or noncompliance with which could have a material adverse effect on Selenix. No unresolved (a) charges of violations of laws or regulations relating to Selenix's business have been made or threatened, (b) proceedings or investigations relating to Selenix's business are pending or have been threatened, and (c) citations or notices of deficiency have been issued or have been threatened, against Selenix relating to or arising out of its business by any governmental authorities.

3.7 Contracts. Exhibit A lists all contracts, covenants, arrangements, agreements, instruments, commitments, purchase orders or licenses to which Selenix is a party as of the date hereof which arise out of or relate to the Assets (the "Contracts"). Selenix is not in violation of or in default under (nor is there existing conditions which with the passage of time either giving of notice or both would cause such a violation or default under) any such Contract. Each such Contract is in full force and effect, and has a legal, valid and binding obligation on Selenix, and to Knowledge of Selenix, each of the other parties thereto, and is enforceable in accordance with its terms. Selenix has not received notice that it is in violation or breach of or in default under any such Contract. Except as set forth on Exhibit A, no such Contract has a provision that would require consent, notice or the payment of money or transfer of property as a result of the transactions contemplated herein.

3.8 No Debarment. Neither Selenix, its (sub)contractors, nor any of its or their officers, directors, employees or consultants, have been debarred by the FDA or other applicable governing health authority (or authorities), under any existing or prior law or regulation.

3.9 Full Disclosure. The representations and warranties made by Selenix in this Agreement and the schedules to be delivered pursuant to this Agreement do not contain any untrue statement of material fact or omit to state a material fact necessary to make any of them in the light of the circumstances in which they were made, not misleading.

4. Representations and Warranties of Eton. Eton represents and warrants to Selenix as follows:

4.1 Authority and Binding Effect. Eton has the full corporate power and authority to execute and deliver this Agreement. This Agreement and the consummation by Eton of its obligations contained herein and therein, have been duly authorized by all necessary corporate actions of Eton, and this Agreement has been duly executed and delivered by Eton. This Agreement is a valid and binding agreement of Eton's, enforceable against Eton in accordance with its terms.

4.2 Organization and Standing. Eton is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware, and Eton is qualified to do business in each jurisdiction where such qualification is necessary and where the failure to be so qualified would have a material adverse effect on Eton. Eton has the requisite corporate power and authority to conduct its business as now conducted.

4.3 Conflicts; Consents. The execution and delivery by Eton of this Agreement and the consummation of the transactions contemplated hereby, will not give rise to a Conflict with respect to (a) any provision of the certificate of incorporation or bylaws of Eton, each as amended to date, (b) contracts, covenants, arrangements, agreements, instruments, commitments, purchase orders or licenses to which Eton or any of its properties or assets (including intangible assets) is subject, or (c) any judgment, order, decree, statute, law, ordinance, rule or regulation applicable to Eton or any of its properties or assets (tangible and intangible), except in any such case where it would not have a material adverse effect on Selenix's rights under the Assets. It is not necessary for Eton to take any action or to obtain any approval, consent, or release by or from any Third Party, governmental or other, to enable Eton to enter into or perform its obligations under this Agreement.

4.4 Compliance with Law/Permits. Eton is in compliance with all, and is not in violation of any, law, ordinance, order, decree, rule or regulation of any governmental agency or authority, the violation of or noncompliance with which could have a material adverse effect on Selenix. No unresolved (a) charges of violations of laws or regulations relating to Eton's business have been made or threatened, (b) proceedings or investigations relating to Eton's business are pending or have been threatened, and (c) citations or notices of deficiency have been issued or have been threatened, against Eton relating to or arising out of its business by any governmental authorities, which have had or could reasonably be expected to have, individually or in the aggregate, a material adverse effect on Eton.

5. Financial Terms.

5.1 Initial Payment. Within two (2) business days following satisfaction of the condition precedent in Section 9.3, Eton shall pay to Selenix One Million Five Hundred Thousand Dollars ($1,500,000).

5.2 Milestone Payments. Within thirty (30) days following the first achievement of each of the following milestone events, Eton shall pay to Selenix the corresponding milestone payment:

Milestone Event	**Milestone Payment**
Eton, its Affiliate or Licensee filing an NDA for a Product with the FDA	One Million Five Hundred Thousand Dollars ($1,500,000)
Eton, its Affiliate or Licensee obtaining marketing approval for a Product from the FDA	One Million Dollars ($1,000,000)

5.3 Net Receipts Payments.

5.3.1 Net Receipts Payment Amounts.

(a) Net Receipts Payment Consideration. Subject to the provisions in this Section 5.3.1 and Sections 5.3.2 and 7.3, Eton shall pay to Selenix, on a quarterly basis, an amount equal to fifty percent (50%) of Net Receipts of Products during the Payment Period (the "Net Receipts Payment Consideration").

(b) Credits. Eton will apply a credit equal to ten percent (10%) of Gross Sales and Net Licensing Revenue against the Net Receipts Payment Consideration owing to Selenix under Section 5.3.1(a); *provided*, *however*, for the purposes of the above credit calculation, the difference between Gross Sales and Net Sales shall not exceed twelve percent (12%). Additionally, if Eton or its Affiliate is required to pay royalties to any Third Party in order to make, have made, use, sell, offer to sale or import a Product, then Eton shall have the right to credit fifty percent (50%) of such Third Party royalty payments against the Net Receipts Payment Consideration owing to Selenix under Section 5.3.1(a).

(c) Combination/Bundled Products. In the event that a Product is sold by Eton or its Affiliates in combination with one or more products which is itself not a Product, then Net Sales shall be calculated by multiplying the sales price of such combination sale by the fraction A/(A+B) where A is the fair market value of the Product(s) and B is the fair market value of the other product(s) in the combination sale, each as reasonably determined by Eton.

5.3.2 Reports and Net Receipts Payments. Within sixty (60) days after the end of each calendar quarter during the applicable Payment Period, Eton shall deliver to Selenix a report setting forth for such calendar quarter (a) the applicable Net Receipts Payment Consideration and (b) the applicable exchange rate as determined below. Eton shall remit the total payments due during such calendar quarter at the time such report is made. No such reports or payments shall be due for any Product before the First Commercial Sale of such Product. With respect to Net Receipts received in United States dollars, all amounts shall be expressed in United States dollars. With respect to Net Receipts received in a currency other than United States dollars, all amounts shall be expressed both in the currency in which the amount is invoiced (or received as applicable) and in the United States dollar equivalent. The United States dollar equivalent shall be calculated using the average of the exchange rate (local currency per US$1) published in The Wall Street Journal, Western Edition, under the heading "Currency Trading" on the last business day of each month during the applicable calendar quarter.

5.4 Payment Provisions.

5.4.1 Payment Terms. The Net Receipts Payment Consideration shown to have accrued by each report provided for under Section 5.3.2 shall be due on the date such report is due. Payment of Net Receipts Payment Consideration in whole or in part may be made in advance of such due date.

5.4.2 Withholding Taxes. Eton shall be entitled to deduct the amount of any withholding taxes, value-added taxes or other taxes, levies or charges with respect to such amounts, other than United States taxes, payable by Eton or its Affiliates, or any taxes required to be withheld by Eton or its Affiliates, to the extent Eton or its Affiliates pay to the appropriate governmental authority on behalf of Selenix such taxes, levies or charges. Eton shall use reasonable efforts to minimize any such taxes, levies or charges required to be withheld on behalf of Selenix by Eton or its Affiliates. Eton promptly shall deliver to Selenix proof of payment of all such taxes, levies and other charges, together with copies of all communications from or with such governmental authority with respect thereto.

5.5 Audits. Upon the written request of Selenix and not more than once in each calendar year, Eton shall permit an independent certified public accounting firm of nationally recognized standing selected by Selenix and reasonably acceptable to Eton, at Selenix's expense, to have access during normal business hours to such of the financial records of Eton as may be reasonably necessary to verify the accuracy of the Net Receipts Payment Consideration reports hereunder for the eight (8) calendar quarters immediately prior to the date of such request (other than records for which Selenix has already conducted an audit under this Section). If such accounting firm concludes that additional amounts were owed during the audited period, Eton shall pay such additional amounts within thirty (30) days after the date Selenix delivers to Eton such accounting firm's written report so concluding. The fees charged by such accounting firm shall be paid by Selenix; provided, however, if the audit discloses that the Net Receipts Payment Consideration payable by Eton for such period are more than one hundred ten percent (110%) of the Net Receipts Payment Consideration actually paid for such period, then Eton shall pay the reasonable fees and expenses charged by such accounting firm. Selenix shall cause its accounting firm to retain all financial information subject to review under this Section 5.5 in strict confidence; provided, however, that Eton shall have the right to require that such accounting firm, prior to conducting such audit, enter into an appropriate non-disclosure agreement with Eton regarding such financial information. The accounting firm shall disclose to Selenix only whether the reports are correct or not and the amount of any discrepancy. No other information shall be shared. Selenix shall treat all such financial information as Eton's confidential information, and shall not disclose such financial information to any Third Party or use it for any purpose other than as specified in this Section 5.5.

5.6 Allocation of Consideration. The consideration for the Assets shall be allocated, if an allocation is required, by Eton within sixty (60) days following a determination that such allocation is required. After the Effective Date, Eton and Selenix shall make consistent use of any allocation required under Section 1060 of the Internal Revenue Code for all Tax purposes and in all filings, declarations and reports with the Internal Revenue Service or any other applicable taxing authority in respect thereof. In any and all actions, suits, proceedings, arbitration, or governmental or regulatory investigations or audits related to the determination of any Tax, neither Eton nor Selenix shall contend or represent that such allocation is not a correct allocation.

5.7 Survival. This Section 5 shall survive the expiration of this Agreement and shall only terminate upon the expiration of the Payment Period and all payment obligations.

6. Selenix Covenants.

6.1 Transfer. Within thirty (30) days after the Effective Date, Selenix shall transfer to Eton all Assets (including any and all tangible embodiments thereof), including all items described on Exhibit B.

6.2 Further Assistance.

6.2.1 Selenix shall provide all cooperation reasonably requested by Eton in connection with any effort by Eton to establish, perfect, defend, or enforce its rights in or to the Assets. Such cooperation shall include (a) executing such further assignments, transfers, licenses, releases and consents, and (b) providing such data and information, consulting with Eton and executing and delivering all such further documents and instruments, in each case as requested by Eton regarding the Assets.

6.2.2 Selenix shall provide, and shall cause its employees, contractors and consultants to provide, all cooperation, technical assistance and support reasonably requested by Eton regarding (a) the exploitation of the Assets (including the research, development and production of any Product), and (b) applying for, obtaining and maintaining any and all approvals, licenses, registrations or authorizations necessary or desirable to test, market or commercialize the Assets (including any Product). Such cooperation shall include providing such data and information, consulting with Eton and executing and delivering all such further documents and instruments, in each case as requested by Eton regarding the Assets and shall not exceed a total of eighty (80) hours.

6.2.3 Eton shall own, and Selenix hereby assigns to Eton, all right, title and interest in and to all results and other work product resulting from the activities described in this Section 6.2, together with all intellectual property rights therein and thereto.

6.3 Non-Competition. Except as expressly agreed in writing by Eton, Selenix shall not, directly or indirectly, develop, seek to develop, make, have made, market, solicit orders for, offer for sale, sell, import, distribute or otherwise commercialize a Product or exploit the Technology.

7. Indemnification.

7.1 Indemnification of Eton. Subject to the provisions of this Section 7, Selenix shall indemnify, defend and hold harmless Eton, its officers, directors, Affiliates, agents, stockholders and representatives (collectively, the "Eton Indemnitees"), from and against any and all loss, liability, damage and expense (including reasonable attorneys' fees and costs) incurred as a result of any claim, demand, action or proceeding by any Third Party (collectively, "Losses") incurred or suffered by an Eton Indemnitee to the extent arising out of:

7.1.1 any breach of the representations and warranties of Selenix set forth in this Agreement;

7.1.2 any breach of any covenant or agreement of Selenix set forth in this Agreement or in any certificate, instrument, or other document delivered pursuant to this Agreement; and

7.1.3 the ownership, operation or exploitation of the Assets prior to the Effective Date or any liability or obligation whatsoever of Selenix.

7.2 Indemnification of Selenix. Subject to the provisions of this Section 7, Eton shall indemnify and hold harmless Selenix, its officers, directors, agents and representatives (collectively, the "Selenix Indemnitees"), from and against any and all Losses incurred or suffered by a Selenix Indemnitee to the extent arising out of:

7.2.1 any breach of the representations and warranties of Eton set forth in this Agreement;

7.2.2 any breach of any covenant or agreement of Eton set forth in this Agreement or in any certificate, instrument, or other document delivered pursuant to this Agreement;

7.2.3 the ownership, operation or exploitation of the Assets after the Effective Date or the manufacture, use, or sale of any Product solely by Eton, its Licensees or their respective Affiliates or the use of any Product by their customers.

7.3 Offset. Eton may offset against the Net Receipts Payment Consideration or any other amounts due Selenix from Eton, any amounts owed to Eton for indemnification under Section 7.1. The exercise of such offset by Eton in good faith, whether or not ultimately determined to be justified, shall not constitute an event of default hereunder. Neither the exercise nor the failure to exercise, any such right of offset shall constitute an election of remedies or limit Eton in any manner in the enforcement of any other remedies that may be available to it.

7.4 Procedure. A party seeking indemnification (the "Indemnitee") shall promptly notify the other party (the "Indemnifying Party") in writing of a claim, demand, action or proceeding; provided that an Indemnitee's failure to give such notice or delay in giving such notice shall not affect such Indemnitee's right to indemnification under this Section 7 except to the extent that the Indemnifying Party has been prejudiced by such failure or delay. The Indemnifying Party shall have the right to control the defense of all indemnification claims hereunder. The Indemnitee shall have the right to participate at its own expense in the claim, demand, action or proceeding with counsel of its own choosing. The Indemnifying Party shall consult with the Indemnitee in good faith with respect to all non-privileged aspects of the defense strategy. The Indemnitee shall cooperate with the Indemnifying Party as reasonably requested, at the Indemnitee's sole cost and expense. The Indemnifying Party shall not settle any claim, demand, action or proceeding with respect to which without the Indemnitee's prior written consent, which consent shall not be unreasonably withheld.

8. Confidentiality.

8.1 Confidential Information. During the term of this Agreement, and for a period of five (5) years following the expiration hereof, except as otherwise provided in this Section 8, Selenix shall maintain in confidence all data and information comprising the Assets (the "Confidential Information"), and shall not use, disclose or grant the use of the Confidential Information except on a need-to-know basis to those directors, officers, employees and contractors, to the extent such disclosure is reasonably necessary in connection with performing its obligations or exercising its rights under this Agreement. To the extent that disclosure is authorized by this Agreement, prior to disclosure, Selenix shall obtain agreement of any such Person to hold in confidence and not make use of the Confidential Information for any purpose other than those permitted by this Agreement. Selenix shall notify Eton promptly upon discovery of any unauthorized use or disclosure of the Confidential Information.

8.2 Terms of this Agreement. Except as otherwise provided in this Section 8, neither party shall disclose any terms or conditions of this Agreement to any Third Party without the prior consent of the other party. Notwithstanding the foregoing, prior to execution of this Agreement, the parties have agreed upon the substance of information that can be used to describe the terms of this transaction, and each party may disclose such information, as modified by mutual agreement in writing from time to time, without the other party's consent.

8.3 Permitted Disclosures. The confidentiality obligations contained in this Section 8 shall not apply to the extent that (a) a party is required (i) in the reasonable opinion of such party's legal counsel, to disclose information by applicable law, regulation, rule (including rule of a stock exchange or automated quotation system), order of a governmental agency or a court of competent jurisdiction or legal process, including tax authorities, or (ii) to disclose information to any governmental agency for purposes of obtaining approval to test or market a product, provided in either case that, to the extent practicable, such party shall provide written notice thereof to the other party and sufficient opportunity to object to any such disclosure or to request confidential treatment thereof; or (b) a party can demonstrate that (i) the information was or became public knowledge, other than as a result of actions of such party in violation hereof; or (ii) the information was disclosed to the Recipient on an unrestricted basis from a source unrelated to any party to this Agreement and not under a duty of confidentiality to the other party. Notwithstanding anything to the contrary herein, Eton may disclose the terms and conditions of this Agreement to any Person with whom Eton has, or is proposing to enter into, a business relationship, as long as such Person has entered into a confidentiality agreement with Eton.

8.4 Injunctive Relief. Each party acknowledges that it will be impossible to measure in money the damage to the other party if such party fails to comply with the obligations imposed by this Section 8, and that, in the event of any such failure, the other party may not have an adequate remedy at law or in damages. Accordingly, each party agrees that injunctive relief or other equitable remedy, in addition to remedies at law or damages, is an appropriate remedy for any such failure and shall not oppose the granting of such relief on the basis that the disclosing party has an adequate remedy at law. Each party agrees that it shall not seek, and agrees to waive any requirement for, the securing or posting of a bond in connection with the other party seeking or obtaining such equitable relief.

9. Term and Condition Precedent.

9.1 Term. The term of this Agreement shall continue until expiration of all payment obligations hereunder.

9.2 Effect of Expiration. Expiration of this Agreement shall be without prejudice to any rights which shall have accrued to the benefit of any party prior to such expiration. Without limiting the foregoing, Sections 1, 2.3, 3, 4, 5, 6.2, 6.3, 8, 9.2, and 10 shall survive any expiration of this Agreement.

9.3 Condition Precedent. Notwithstanding anything to the contrary herein, the effectiveness of this Agreement is conditioned upon Eton having received net proceeds of the sale of its equity securities to Third Parties of not less than ten million dollars ($10,000,000.00) in cash, whether individually or in the aggregate, within ninety (90) days after the Effective Date. If Eton fails to satisfy such condition precedent, then this Agreement shall be null and void ab initio.

10. Miscellaneous.

10.1 Assignment. Neither party shall assign its rights or obligations under this Agreement without the prior written consent of the other party; provided, however, that a party may, without such consent, assign this Agreement and its rights and obligations hereunder (a) to any Affiliate, or (b) in connection with the transfer or sale of all or substantially all of its business to which this Agreement relates, or in the event of its merger, consolidation, change in control or similar transaction. Any permitted assignee shall assume all obligations of its assignor under this Agreement. Any purported assignment in violation of this Section 10.1 shall be void.

10.2 Severability. Any provision of this Agreement which is illegal, invalid or unenforceable shall be ineffective to the extent of such illegality, invalidity or unenforceability, without affecting in any way the remaining provisions hereof.

10.3 Governing Law; Exclusive Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the State of California, without regard to the conflicts of law principles thereof. Each of the parties hereto irrevocably consents to the exclusive jurisdiction and venue of any federal court located in the Southern District of the State of California or state court in San Diego, California having jurisdiction, in connection with any matter based upon or arising out of this Agreement or the matters contemplated herein, agrees that process may be served upon them in any manner authorized by laws of the State of California for such persons and waives and covenants not to assert or plead any objection which they might otherwise have to such jurisdiction, venue and such process.

10.4 Entire Agreement; Amendment. This Agreement, together with the Exhibit hereto, and each additional document, instrument or other agreement to be executed and delivered pursuant hereto constitute all of the agreements of the parties with respect to, and supersede all prior agreements and understandings relating to the subject matter of, this Agreement or the transactions contemplated by this Agreement. This Agreement may not be modified or amended except by a written instrument specifically referring to this Agreement signed by the parties hereto.

10.5 Waiver. No waiver by one party of the other party's obligations, or of any breach or default hereunder by any other party, shall be valid or effective, unless such waiver is set forth in writing and is signed by the party giving such waiver; and no such waiver shall be deemed a waiver of any subsequent breach or default of the same or similar nature or any other breach or default by such other party.

10.6 Notices. Any consent, notice or report required or permitted to be given or made under this Agreement by a party to the other party shall be in writing, delivered by any lawful means to such other party at its address indicated below, or to such other address as the addressee shall have last furnished in writing to the addressor and (except as otherwise provided in this Agreement) shall be effective upon receipt by the addressee.

If to Selenix: Selenix, LL
1640 Roanoke Blvd.
Salem, Virginia 24153
Attention: Bob Patane, President

If to Eton: Eton Pharmaceuticals, Inc.
12264 El Camino Real, Suite 350
San Diego, California 92130
Attention: Chief Executive Officer

10.7 Counterparts. This Agreement may be executed in separate counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

******SIGNATURE PAGE FOLLOWS******

SIGNATURE PAGE

IN WITNESS WHEREOF, each party has caused a duly authorized representative to execute this Agreement as of the Effective Date.

SELENIX	**ETON**
Selenix, LLC	**Eton Pharmaceuticals, Inc.**
/s/ Bob Patane	*/s/ Sean Brynjelsen*
By: Bob Patane	By: Sean Brynjelsen
Its: President	Its: Chief Executive Officer
Date: 6-23-2017	Date: 6-23-2017

[Signature Page to Asset Purchase Agreement]

EXHIBIT A

Contracts

EXHIBIT B

Certain Assets To Be Transferred

Exhibit 10.6

EXCLUSIVE DEVELOPMENT AND SUPPLY AGREEMENT

This Exclusive Development and Supply Agreement ("Agreement") is made and entered into as of July 9, 2017 ("Effective Date"), between ETON PHARMACEUTICALS, INC., a Delaware corporation ("Eton"), with a place of business at 21925 Field Pkwy, Suite 235, Deer Park, IL 60010, and ANDERSEN PHARMA, LLC, a Delaware limited liability company ("Andersen"), with a place of business at 160 Greentree Drive, Suite 101, Dover, Delaware 19904 (each a "Party" and collectively the "Parties").

RECITALS

ANDERSEN is engaged in the business of development of finished pharmaceutical products;

ETON is engaged in the business of developing, marketing, distributing and selling pharmaceutical drug products;

WHEREAS, ANDERSEN is developing the Product (as defined below) for the US market and has agreed to have ETON sell, market and distribute Product within the Territory subject to the terms set out in this Agreement.

NOW, THEREFORE, in consideration of the respective covenants, agreements, representations, warranties and indemnities herein contained and for other good and valuable consideration (the receipt and sufficiency of which are acknowledged by each Party), the Parties agree to the following terms and conditions:

AGREEMENT

1. DEFINITIONS

1.1 "Adjusted Gross Profit" or "AGP" means (a) Net Sales less the Purchase Price and (b) Net Licensing Revenues, collectively, in excess of the Legal Recovery Amount.

1.2 "Affiliate" means with respect to any Party, any party controlling, controlled by or under common control with any such Party. For purposes hereof, "control" and its derivatives means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Party, whether through the ownership of voting securities or voting interests, by contract or otherwise.

1.3 "ANDA" means an Abbreviated New Drug Application, or similar application for marketing approval of a Product submitted to the FDA.

1.4 "APA" means the Asset Purchase Agreement to be entered into between the Parties upon exercise of the option pursuant to Section 2.2 in the form attached as Exhibit B.

1.5 “API” means the active pharmaceutical ingredient in unfinished form, specifically, ***.

1.6 “Applicable Law” means as to any person or entity, any treaty, constitution, statute, ordinance, law, rule or regulation, guidance issued by a governmental or regulatory authority, or order or other determination of an arbitrator or a court or other governmental or regulatory authority, in each case applicable to or binding upon such person or entity or any of its property or to which such person or entity or any of its property is subject (including, without limitation, the U.S. Act and cGMPs).

1.7 “ETON Indemnitees” has the meaning ascribed to it in Section 9.1.

1.8 “Eton’s 3PL” means Eton’s third-party logistics provider, if any.

1.9 “Certificate of Analysis” means a certificate of analysis conforming in content and method with the requirements of the U.S. Act.

1.10 “cGMP” generally means current Good Manufacturing Practices in the Territory. With respect specifically to the Registration (NDA or ANDA), cGMP means the current Good Manufacturing Practices as established by FDA as the same may be amended from time to time.

1.11 “CMO” means the acronym, Contract Manufacturing Organization, a third-party contract manufacturer. For the purposes of this Agreement, the CMO is ***. ANDERSEN will not change the CMO for the Product without ETON’s prior written consent.

1.12 “CMO Agreement” means the agreement between ANDERSEN and CMO, having an effective date of May 10 2017, pursuant to which the CMO manufactures and supplies the Product.

1.13 “Components” means raw materials for use in manufacturing of the API and/or the Product.

***Text has been omitted pursuant to Registrant’s confidential treatment request filed with the Securities and Exchange Commission (“Commission”) pursuant to Rule 406 under the Securities Act of 1933. The omitted text has been filed separately with the Commission.

1.14 "Confidential Information" means any and all confidential or proprietary information disclosed by or on behalf of the Disclosing Party to the Receiving Party in connection with the obligations and rights of each Party under this Agreement or the Product or otherwise in connection with this Agreement (in each case, whether or not marked or otherwise identified as confidential, proprietary or with words of similar import), including, without limitation, information relating to designs, know-how, inventions, technical data, ideas, uses, processes, methods, formulae, research and development activities, work in process, cost and pricing information, plans and strategies, or any scientific, engineering, manufacturing, marketing, business, financial or other information relating to the Disclosing Party or any of its Affiliates, its or any if its Affiliates' present or future products, sales, suppliers, prospective suppliers, customers, prospective customers, employees, investors or business, together with any information provided to the Disclosing Party on a confidential basis by a third party; in each such case regardless of the form in which the information is disclosed or delivered (e.g. oral, written, graphic or electronic). Without limiting the foregoing, Confidential Information shall also include any other information, regardless whether in oral, written, graphic or electronic form, which, given the circumstances surrounding such disclosure, would be considered confidential by the Disclosing Party. All Confidential Information regarding Products shall be Eton's Confidential Information, with Eton as the Disclosing Party and Andersen as the Receiving Party. The terms of this Agreement, as well as the existence of this Agreement, shall be deemed Confidential Information of both Parties.

1.15 "Disclosing Party" means the Party whose Confidential Information is disclosed hereunder to the other Party.

1.16 "DDP" means the acronym for the delivery term Delivery Duty Paid (as defined in Incoterms).

1.17 "Epidemic Failure" means Product deficiencies resulting from failure to meet the Specifications, failure to meet the warranties of Sections 8.2 or 8.3, or defects in material, workmanship and/or manufacturing process that are in excess of one percent (1%) of the total number of Product shipped during any rolling six (6) month period.

1.18 "ANDERSEN Indemnitees" has the meaning ascribed to it in Section 9.2.

1.19 "FDA" means the United States Food and Drug Administration and its successors.

1.20 "Forecast" is defined in Section 5.2.

1.21 "GDUFA" means the Generic Drug User Fee Act, 21 U.S.C. §379j-42, signed into law on July 9, 2012, as amended from time to time.

1.22 "NDA" shall mean a New Drug Application, or similar application for marketing approval of a Product submitted to the FDA.

1.23 "Incoterms" means the 2010 edition of the "International Chamber of Commerce Official Rules for the Interpretation of Trade Terms".

1.24 "Insignia" means trademarks, trade names, logos, symbols, badges, labels, decorative designs, packaging designs or similar trade dress.

1.25 "Intellectual Property Rights" means all United States and worldwide trademarks, service marks, trade dress, logos, copyrights, rights of authorship, inventions, patents, rights of inventorship, moral rights, rights of publicity and privacy, trade secrets, rights under unfair competition and unfair trade practices laws, and all other intellectual and industrial property rights related thereto.

1.26 "Legal Recovery Amount" means all legal costs and expenses (including attorneys' fees and costs) incurred by Eton or its Affiliates in connection with the development, commercialization, obtaining and maintaining regulatory approvals, or other exploitation or use of Product, or the preparation, prosecution, maintenance, enforcement, defense, licensing, commercialization or other exploitation of any intellectual property related thereto.

1.27 "Licensee" means a third party to whom Eton or its Affiliate has granted a license, immunity or other right under any NDA or ANDA for a Product filed and obtained pursuant to Section 3 to offer to sell, sell or otherwise commercialize such Product, provided such license has not expired or been terminated.

1.28 "Net Licensing Revenues" means the aggregate cash consideration received by Eton or its Affiliates in consideration for the grant by Eton or its Affiliates to a Licensee of a license, immunity or other right under any NDA or ANDA for a Product filed and obtained pursuant to Section 3 to offer to sell, sell or otherwise commercialize such Product (excluding amounts received to reimburse Eton or its Affiliates for research, development or similar services conducted for Products, in reimbursement of out-of- pocket expenses relating to Products, or in consideration for the purchase of any debt or securities of Eton or its Affiliates).

1.29 "Net Sales" means the gross sales price of Products invoiced by Eton or its Affiliates to customers who are not Affiliates (or are Affiliates but are the end users of such Product) less the following items set forth in clauses (a) through (f) (such items in (a) through (f) are "Sales Allowances"): (a) credits, allowances, discounts and rebates to, and chargebacks from the account of, such customers; (b) freight and insurance costs in transporting Products; (c) cash, quantity and trade discounts, rebates and other price reductions for Products; (d) sales, use, value-added and other direct taxes; (e) customs duties, tariffs, surcharges and other governmental charges incurred in exporting or importing Products; and (f) an allowance for uncollectible or bad debts determined in accordance with generally accepted accounting principles.

1.30 "Purchase Price" means, with respect to a Product, (a) in the case such Product is acquired by Eton from Andersen, the Transfer Price, and (b) otherwise, Eton's cost to obtain such Product.

1.31 "Product" means any product, in any form or formulation for injectable administration, containing ***, *** (***).

***Text has been omitted pursuant to Registrant's confidential treatment request filed with the Securities and Exchange Commission ("Commission") pursuant to Rule 406 under the Securities Act of 1933. The omitted text has been filed separately with the Commission.

1.32 “Profit Split” means the amount equal to 50% of the AGP to ANDERSEN and 50% AGP to ETON on sales of the Product in the Territory.

1.33 “Purchase Order” means an order for Product which shall specify at least the following: (i) Product quantity; (ii) delivery date; and (iii) other order terms and conditions consistent with this Agreement. Purchase Orders may additionally include, without limitation, other matters specific to each separate sale by ETON to a customer.

1.34 “Quality Agreement” means the quality agreement to be entered into by the Parties on terms consistent with the terms of this Agreement as required pursuant to Section 3.4.

1.35 “Recall Processing Fee” means, for any Recall, ten percent (10%) of Eton’s total out-of- pocket costs and expenses, including attorneys’ fees, arising out of or related to such Recall, comprised of internal staff time in managing and executing such Recall (including but not limited to correspondence with the FDA, wholesalers, retailers, and consumers, and addressing quarantine and destruction). Recall Processing fees are intended to compensate Eton for the cost of the above-referenced activities, which are difficult to quantify, and are not intended as a penalty.

1.36 “Receiving Party” means the Party to whom Confidential Information of the other Party is disclosed.

1.37 “Specifications” means, with respect to the Product and API, (i) the corresponding USP Standards; and (ii) the specifications for the Product as set forth in the NDA or ANDA and as may be modified in connection with approvals or directives of the FDA or other regulatory authority.

1.38 “Technical Package” means all CMC information necessary for the formulation, testing and manufacturing of the Product.

1.39 “Term” is defined in Section 10.1.

1.40 “Territory” means collectively all the territories and possessions of the United States of America.

1.41 “Transfer Price” has the meaning set forth in Section 5.3(1).

1.42 “U.S. Act” means the United States Federal Food, Drug, and Cosmetic Act, and the rules, regulations and guidances thereunder as amended from time to time.

1.43 “USP Standards” or “USP” means the Reference Standards published by the United States Pharmacopeia Convention Inc.

1.44 “US Regulatory Agent” means, the party responsible for all communications with the FDA for the NDA or ANDA, including but not limited to compiling and submission of Annual Reports, any necessary Pharmacovigilance, and AE reporting.

1.45 “10% Marketing Allowance” means, with respect to a period, 10% of Net Sales for such period. The 10% Marketing Allowance is intended to reflect an estimate of those customary adjustments of the following type or nature, including cash discounts, Medicaid rebates to the various Federal and State Programs, print and distribution costs related to promotional and marketing materials, purchasing and logistics costs including third-party warehousing and distribution costs to receive, store, and ship product (including insurance, freight, duties and taxes), QC/QA Release, and any other costs in relation to Eton’s handling, administrative and regulatory activities, duties, actual distribution and sales activities in connection with the Product.

2. Financial terms

2.1 Licensing Payment. Within two (2) business days following signature of this agreement, Eton shall pay to Andersen Seven hundred fifty thousand dollars ($750,000).

2.2 Option to Purchase: During the Term of this Agreement or upon termination or expiration of this Agreement, Eton shall have the option (in its sole discretion) to purchase the Assets as defined in the APA by (a) completing the exhibits to, and executing and delivering to Anderson, the APA, and (b) paying to Anderson consideration of one dollar ($1.00) as specified in Section 5 of the APA. Upon exercise of the option by Eton, (i) Anderson shall execute and deliver to Eton the APA, and (ii) Sections 3.1, 3.2, and 3.3 of this Agreement terminate.

2.3 Milestone Payments. Within thirty (30) days following the first achievement of each of the following milestone events, Eton shall pay to Andersen the corresponding non- reimbursable milestone payment:

Milestone Event	**Milestone Payment**
Successful completion of registration batches of a Product for filing an NDA or ANDA for a Product with the FDA	Seven hundred fifty thousand dollars ($750,000)
A Party filing an NDA or ANDA for a Product which is accepted by the FDA	Seven hundred fifty thousand dollars ($750,000)
A Party obtaining marketing approval for a Product from the FDA	Seven hundred fifty thousand dollars ($750,000)

3. PRODUCT NDA/ANDA

Subject to the terms and conditions of this Agreement, Andersen hereby grants to Eton the exclusive right to develop, obtain regulatory approval for, make, have made, use, sell, offer to sell, import and otherwise commercialize Products in the Territory.

3.1 NDA/ANDA. ANDERSEN will be the owner of the NDA/ANDA, and shall take all reasonably necessary steps to obtain an NDA/ANDA for the Product in the Territory by performing such development and obtaining such data and information as reasonably necessary therefor.

3.2 NDA/ANDA submission fees. Eton shall be responsible for the submission fees for the NDA/ANDA. Eton shall have the right to recoup any such fees from initial profits prior to any profit sharing with Andersen.

(1) ANDERSEN appoints and ETON accepts the appointment as ANDERSEN's US Regulatory Agent as defined above and will provide ETON a copy of the NDA or ANDA in its entirety, including, but not limited to, all amendments, supplements and correspondence relating thereto. Both Parties shall cooperate in the performance of the regulatory obligations and shall provide each other, in a timely manner (for the Annual Report this is defined as 40 days after the anniversary date for approval of the NDA or ANDA) with such information, assistance, documents and reports reasonably required to perform such obligations.

(2) As part of the US Regulatory Agent responsibilities, ETON agrees, within reason, to use commercially reasonable efforts to assist CMO with any US regulatory questions or issues that may arise in the performance of CMO's responsibilities and compliance with US FDA cGMP, provided however, that management of the CMO (including but not limited to management of CMO's compliance under Applicable Law) will be the responsibility of ANDERSEN.

3.3 CMC Activities. ANDERSEN shall be solely responsible for performing, at its sole cost, all activities required to support the chemistry, manufacturing and control requirements for the ANDA ("CMC") as required to support the NDA or ANDA in the Territory. ANDERSEN shall perform all activities, prepare all materials and information, and provide any and all equipment, as required for CMC to support the NDA or ANDA.

3.4 Quality Agreement. As soon as practicable following the Effective Date, the Parties shall enter into the Quality Agreement. The Quality Agreement shall contain provisions consistent with the provisions in this Agreement and such other provisions as otherwise required for compliance with cGMP and all other applicable FDA requirements.

3.5 Representatives; Cooperation. Upon execution of this Agreement, ANDERSEN and ETON shall each select one (1) program manager who will have primary responsibility for directing and overseeing all obligations and activities contemplated under this Agreement and for transmitting and receiving all communications regarding this Agreement on behalf of its respective company. Each Party may change its designated program manager at any time by providing advanced written notice to the other Party.

3.6 Adverse Events.

(1) ETON shall maintain an effective system for the review, evaluation and reporting of Product complaints and adverse drug experiences, as defined in 21 C.F.R 314.80(a) and as required under Applicable Law and in accordance with the Quality Agreement.

(2) ANDERSEN shall maintain an effective system for the review, evaluation and reporting of Product complaints and adverse drug experiences, as defined in 21 C.F.R 314.80(a) and as required under Applicable Law and in accordance with the Quality Agreement.

4. MANUFACTURE OF PRODUCT

4.1 ANDERSEN'S Manufacture. The Product shall be manufactured by ANDERSEN, through CMO for ETON and ANDERSEN pursuant to the ANDERSEN CMO Agreement and in conformity with the applicable requirements and specifications (for both the API or the Product, as applicable) as set forth in this Agreement (including, but not limited to, the Specifications and Applicable Law). The CMO Agreement shall be consistent with the terms of this Agreement and shall contain provisions to enable ANDERSEN to perform its obligations hereunder, including, without limitation, providing ETON with rights of inspection and audit over the manufacturing facility. All manufacturers, including but not limited to, the CMO shall purchase raw materials and Components through vendors approved for the API and the Product by the FDA pursuant to the NDA or ANDA. ANDERSEN shall be responsible for ensuring each manufacturer, including but not limited to, the CMO, complies with the terms of this Agreement and delivers Product in conformance with the requirements of (i) all Applicable Law; (ii) cGMP; (iii) the Quality Agreement; and (iv) the Agreement. Any and all manufacturers manufacturing the Product or any Component thereof must have received and continue to maintain satisfactory cGMP inspection status, including, but not limited to, such facilities listed on Exhibit A. Under no circumstances whatsoever, may the API or any Component of the Product manufactured under this Agreement be manufactured at a facility that fails to maintain the inspection status or requirements of this Agreement.

4.2 Management/Oversight of CMO. ANDERSEN shall be wholly responsible for and ensure that CMO complies with all the requirements under this Agreement as if CMO was a party to this Agreement, and expressly acknowledges that any act or omission by CMO, which would constitute a breach of this Agreement, constitutes a breach hereof by ANDERSEN. For any sub-contractors used after the Effective Date by either CMO or ANDERSEN to carry out services regarding the manufacture and supply of the Product shall be pre-approved in writing by Eton, where such services may reasonably materially affect the ANDA or cGMPs and such approval shall not be unreasonably withheld, conditioned or delayed. ANDERSEN shall be wholly responsible for any act or omission by a sub-contractor, which would constitute a breach of this Agreement by ANDERSEN.

4.3 Exclusive Supply. Subject to the terms and conditions of this Agreement: (i) ANDERSEN, through CMO, shall manufacture and supply the Product for marketing and distributing in the Territory exclusively to ETON and ETON's Affiliates during the Term; and (ii) ANDERSEN shall not, directly or indirectly, market, solicit orders for, sell, offer for sale, import, distribute, commercialize or otherwise provide Product to any other party in the Territory. ANDERSEN shall not enter into any agreement with any third party that would (a) conflict or interfere with its obligations under this Agreement, or result in its violation or breach of the terms, conditions or provisions of this Agreement; or (b) violate or conflict with Applicable Law. ETON shall market and resell the Product purchased from Andersen within the Territory (or such additional areas agreed upon by ETON and ANDERSEN).

(1) Notwithstanding the foregoing, ETON shall be free to procure Product from other parties during the Term. If ETON desires to procure Product from such other party during the Term, then the Parties shall cooperate to amend the NDA or ANDA to the extent required by Applicable Law.

(2) Device Market Rights. Andersen shall have the right to reference the Eton Product NDA or ANDA in an FDA registration of a medical drug/device combination (such combination, the "Andersen Device") (a) which device component has received independent approval from the FDA to be sold within the United States and (b) which combination is not competitive with a Product sold alone; *provided*, *however*, that if any Andersen Device is sold by Andersen or any related party or licensee which contains Product in any form or formulation for injectable administration, such Product shall be acquired and sourced only from Eton or its Affiliates or Licensees pursuant to a mutually accepted supply agreement at then-current sale prices for such Product.

4.4 Notifications. Each Party shall promptly (but in any event within three (3) business days) advise the other of any safety or toxicity problem of which either Party becomes aware regarding the Product. ANDERSEN will, within five (5) business days following notification to ANDERSEN, inform ETON in the event of any FDA or other U.S. regulatory inspection relating to the Product and will immediately (but in any event within one (1) business day) notify ETON in writing of any adverse event relating to the Product.

4.5 Recalls. Each Party promptly shall notify the other Party if the Product is determined to be the subject of a recall, market withdrawal, or correction (collectively, "Recall"). In the event of a Recall, ETON shall be responsible for coordinating and managing such Recall of any ETON-labeled Product and ANDERSEN shall be responsible for the Recall of any ANDERSEN-labeled Product, and ETON shall provide ANDERSEN with a copy of all appropriate documents relating to such Recall within a reasonable time of first being notified of such Recall. ANDERSEN and CMO shall reasonably cooperate with ETON and take all necessary actions that may be necessary for ETON to manage the Recall, including, without limitation, keeping ETON informed of any changes or updates to the Product or manufacturing process implemented by ANDERSEN and CMO in response to such Recall, and providing ETON with any and all data, information and documents requested by ETON within three (3) days of such request. The Parties agree to cooperate in case of a Recall and provide such information as may be necessary to effectuate the Recall and to satisfy any regulatory requests about the Recall.

(1) If a Recall is due to ETON's breach of its obligations herein, negligence, or willful misconduct ("ETON Conduct") or ANDERSEN's breach of its obligations herein, negligence or willful misconduct ("ANDERSEN Conduct"), whether as a result of the act, omission or conduct of ANDERSEN, CMO or otherwise, then (i) solely in the case of ETON Conduct, ETON will bear all reasonable out-of-pocket costs and expenses (including attorney's fees) in connection with the Recall, including, but not limited to, all notification letters, postage, phone calls, faxes, courier charges, and all shipping expenses and (ii) solely in the case of ANDERSEN Conduct, ANDERSEN will bear all reasonable out-of-pocket costs and expenses (including attorney's fees) in connection with the Recall, including, but not limited to, all notification letters, postage, phone calls, faxes, courier charges, and all shipping expenses. In furtherance of, but without limiting, the foregoing, if the Recall is due to ANDERSEN Conduct, then ANDERSEN will (A) at ETON's election either (1) within ninety (90) days after so elected by ETON, supply the same form and quantity of the Product to ETON in accordance with this Agreement to replace the recalled Product or (2) promptly after so elected by ETON, issue a full credit or pay a full refund (as selected by ETON) for the recalled Product to ETON, (B) promptly pay to ETON any and all reasonable out- of-pocket costs and expenses resulting therefrom, including but not limited to customer failure-to-supply penalties and destruction costs and (C) promptly pay to ETON the Recall Processing Fee. If a Recall is due to either (I) both ETON Conduct and ANDERSEN Conduct or (II) the nature of the Product (for example, the FDA deems methylergonovine to be unsafe) and is not due to ETON Conduct or ANDERSEN Conduct, then the Parties shall share the cost of the Recall according to the Profit Split (50% Eton, 50% ANDERSEN).

4.6 Right Of Access/Inspections. ANDERSEN acknowledges that it is essential for ETON to have periodic access to each manufacturing facility engaged or used by ANDERSEN to manufacture any Component of the Product supplied to ETON under this Agreement for the purpose of conducting inspections and/or audits to confirm full compliance with the terms of this Agreement, including audits of CMO's compliance with cGMPs and Applicable Law. ANDERSEN and CMO shall permit the FDA and other regulatory agencies to perform inspections of its factory which contains the manufacturing operations for the Products and shall as soon as reasonably practicable, but in no event later than forty-eight (48) hours after being notified of any proposed visit to, or inspection of, the factory, notify ETON of such inspections and, unless the applicable visit or inspection is solely in regard to products other than the Products, ANDERSEN and CMO shall permit ETON or its agents to be present and participate in such visit or inspection. ANDERSEN shall promptly notify ETON of all results of an inspection that affect the manufacturing processes of the Products or that may affect ANDERSEN's ability to supply Products to ETON hereunder. ANDERSEN and CMO shall make available to ETON and/or its representatives all documentation, records, raw data, specimens, labeling, certificates, specifications, formulae, procedures, and other work product, data relating to the, manufacture or testing of the Product, equipment, and facilities relating to this Agreement upon ETON's request with thirty (30) days advance notice for inspection by ETON, its representatives, including authorized third party consultants or representatives of the FDA, at any time commencing on the Effective Date and for two (2) years after the Term. Notwithstanding the foregoing, ETON shall be permitted to conduct audits under this Section 4.6 for cause, including pursuant to a notice from the FDA or an audit by the FDA, as soon as practicable. ETON shall have the right to access any facility manufacturing the Product on behalf of ANDERSEN pursuant to this Agreement, and all applicable records related thereto, to oversee production of the Product, to discuss and inspect its manufacturing processes, and to test the Product and review ANDERSEN'S records or the records of the applicable facility, including, but not limited to CMO, provided that general operations of such manufacturing facility or other client projects in progress at such facility are not unreasonably disrupted during ETON's inspection and that such access is coordinated through ANDERSEN with forty (40) days advance notice, except in cases of audits conducted for cause. If ETON observes, discovers or is notified of any variances from established standards and methods of production of the Product (or any Component thereof) at a manufacturing facility, ETON shall give written notice thereof to ANDERSEN ("Variance Notice"), and upon receipt of any such notice, ANDERSEN promptly shall take all appropriate remedial or corrective action and give written notice to ETON describing in reasonable detail such actions taken. Any failure to cure such variance or noncompliance set forth in the Variance Notice within a reasonable amount of time, not to exceed ninety (90) days, this, in addition to any rights and remedies available to ETON pursuant to this Agreement or under Applicable Law, ETON will have the option to either (a) implement such necessary remedial actions necessary to cure such variance, or (b) terminate this Agreement. If ANDERSEN disagrees with any of ETON's results and findings set forth in ETON's written notice, the Parties agree to discuss and negotiate in good faith toward an appropriate resolution. No inspections/audits or testing performed by ETON as set forth in this Section shall relieve ANDERSEN of any liability for the Product later found to be defective or for ANDERSEN'S failure to meet its obligations under this Agreement. ETON's rights as provided in this Section 4.6 and any other provision under this Agreement with respect to a facility manufacturing the Product or any Component thereof, including, but not limited to, ETON's ability to inspect, visit, audit or take/request corrective action as necessary to correct variance from established and approved manufacturing processes, shall also apply to the pre-approved facilities listed on Exhibit A.

4.7 ANDERSEN shall coordinate and have the right to be present at any ETON inspection of ANDERSEN'S CMO or other contract suppliers.

5. SUPPLY OF PRODUCT

5.1 Purchase Orders. This Agreement applies to all Purchase Orders that ETON, and/or any of its current or future Affiliates, may place with ANDERSEN for the purchase of Product. In this Section 5, and throughout this Agreement, where ETON's rights with respect to Product are referenced, "ETON" will include ETON's Affiliates. The terms and conditions of this Agreement including those presented in all exhibits attached hereto shall apply to any Purchase Order, regardless whether this Agreement or its terms and conditions are expressly referenced in such Purchase Order. Any term or condition set forth in (i) any Purchase Order; or (ii) any acknowledgment or sale document from ANDERSEN that is inconsistent or not provided in this Agreement shall not be applicable to any orders for the Product placed by ETON during the Term, unless expressly agreed to by the Parties in writing. ANDERSEN shall be deemed to have accepted a Purchase Order for which ANDERSEN does not notify ETON in writing within seven (7) business days after its receipt, provided that ANDERSEN may only reject such Purchase Order to the extent it is inconsistent with the terms of this Agreement. ANDERSEN shall be deemed to have accepted all Purchase Orders that are consistent with this Agreement.

(1) The volume of a minimum order of Product shall be one (1) full batch of Product according to the working conditions of ANDERSEN'S CMO. As the execution date of this agreement, current conditions have the Commercial Batch equal to approximately thirty-seven thousand (37,000) vials

(2) Unless otherwise agreed to by the Parties, the minimum shelf life of Product provided to ETON by ANDERSEN, through CMO, shall be not less than 80% of the approved shelf life after receipt of Product at ETON PHARMA.

(3) Product will be delivered hereunder in the timeframe set forth in the applicable Purchase Order; provided, however, that: (a) if no timeframe is specified in the Purchase Order, Product will be delivered hereunder ninety (90) days after the Purchase Order date and (b) unless otherwise agreed by the Parties, any delivery date specified in a Purchase Order will not be earlier than ninety (90) days after the Purchase Order date.

5.2 Forecasts. Each quarter during the Term, ETON will provide ANDERSEN with a twelve (12) month rolling forecast ("Forecast") estimating its monthly requirements for purchases of the Product for the subsequent twelve (12) calendar month period. Failure to provide a Forecast shall not be considered a breach of this Agreement; in such circumstances, ANDERSEN shall rely on the most recent Forecast submitted by ETON. ANDERSEN acknowledges and accepts the Forecast is only an approximation of the amount of the Product that may be ordered by ETON, and is being provided solely as an accommodation from ETON to assist ANDERSEN in ensuring that it has an adequate supply of Components, capacity and supplies to meet the requirements of Purchase Orders that may be issued. Notwithstanding any provision herein to the contrary, ETON shall not be obligated to purchase any amounts of the Product set forth in a Forecast. ETON shall use commercially reasonable efforts to issue a new twelve (12) month Forecast by the first business day of each calendar month. ANDERSEN shall be obligated to provide the quantity of Product consistent with the Forecast (with a permitted additional twenty percent (20%) excess variance) upon receipt of ETON's Purchase Orders, and will be deemed to have warranted that it has the manufacturing capacity to supply the Product in accordance with the Forecast and the permitted excess variance as provided above.

5.3 Transfer Price and Freight Costs.

(1) Transfer Price. For any Product purchased from Andersen hereunder, Eton shall pay to Andersen Andersen's actual cost to procure such Product (the "Transfer Price").

(2) Freight Costs. The Parties will share all shipping costs, transportation costs, transit insurance, and customs duties associated with shipping a Product from Andersen to Eton's 3PL or to such other warehouse facility as Eton otherwise designates ("Freight Costs") in proportion to such Party's Profit Split (50% ANDERSEN; 50% ETON), ANDERSEN will incur all third party Freight Costs up- front and ANDERSEN will invoice Eton for Eton's share of such costs as they are incurred.

(3) Invoices. Except as mutually agreed by the Parties, ANDERSEN will invoice Eton for the Transfer Price of Product purchased under this Agreement and ETON's 50% share of Freight Costs owed for such Product, upon receipt of such Product at Eton's 3PL or to such other warehouse facility as Eton otherwise designates. Payments are due within thirty (30) days after invoice receipt for Product purchased by Eton.

5.4 Profit Split. Subject to the provisions in this Section 5, upon commercialization of the Product in the Territory, the Parties shall be entitled to a profit split of Adjusted Gross Profit in the Territory, wherein ETON shall pay to ANDERSEN 50% of AGP (the "Profit Split"). Profit Split payments will be reconciled and calculated on a quarterly basis and will be paid no later than sixty (60) days after the end of the calendar quarter directly to ANDERSEN in accordance with Sections 5.5 and 5.6.

(1) Credits. Eton will apply the 10% Marketing Allowance as a credit against Andersen's share of the Profit Split. Additionally, if Eton or its Affiliate is required to pay royalties to any third party in order to make, have made, use, sell, offer to sale or import a Product, then Eton shall have the right to credit fifty percent (50%) of such third party royalty payments against the Profit Split payment to Andersen.

(2) Combination/Bundled Products. In the event that a Product is sold by Eton or its Affiliates in combination with one or more products which is itself not a Product, then Net Sales shall be calculated by multiplying the sales price of such combination sale by the fraction A/(A+B) where A is the fair market value of the Product(s) and B is the fair market value of the other product(s) in the combination sale, each as reasonably determined by Eton.

(3) There may be instances wherein Andersen's share of the AGP is less than zero. In such event, no Profit Split payment will be made to Andersen but Eton shall be entitled to accrue the negative AGP and offset it against positive AGP until Andersen's share of the AGP is positive.

5.5 Reports and Payments. Within sixty (60) days after the end of each calendar quarter, Eton shall deliver to Andersen a report setting forth for such calendar quarter (a) the applicable Profit Split payment and (b) the applicable exchange rate as determined below. Eton shall remit the total payments due during such calendar quarter at the time such report is made. No such reports or payments shall be due for any Product before the first commercial sale of such Product.

5.6 Payment Provisions.

(1) Payment Terms. The Profit Split payment above shown to have accrued by each report provided for under Section 5.5 shall be due on the date such report is due. Payment of the Profit Split payment in whole or in part may be made in advance of such due date.

(2) Withholding Taxes. Eton shall be entitled to deduct the amount of any withholding taxes, value-added taxes or other taxes, levies or charges with respect to such amounts payable by Eton or its Affiliates, or any taxes required to be withheld by Eton or its Affiliates, to the extent Eton or its Affiliates pay to the appropriate governmental authority on behalf of Andersen such taxes, levies or charges. Eton shall use reasonable efforts to minimize any such taxes, levies or charges required to be withheld on behalf of Andersen by Eton or its Affiliates. Eton promptly shall deliver to Andersen proof of payment of all such taxes, levies and other charges, together with copies of all communications from or with such governmental authority with respect thereto.

5.7 Rescheduling. ETON may reschedule delivery under a Purchase Order from its originally scheduled ship date, by up to three (3) months, provided that it so informs ANDERSEN on or before the scheduled shipment date stated in the applicable Purchase Order without any rescheduling or any other charges.

5.8 Packing and Cartage. All amounts of the Product ordered by ETON shall be packed for shipment and storage in full accordance with Applicable Law, the Specifications, and ETON's instructions and in full compliance with the Quality Agreement. ANDERSEN shall timely ship and deliver the Product DDP to Eton's 3PL or to such other warehouse facility as Eton otherwise designates in accordance with Section 5.9 and the other provisions of this Agreement.

5.9 Shipment.

(1) ANDERSEN, by itself or through CMO, shall ship the Product or have the product shipped DDP to ETON's 3PL or to such other warehouse facility as Eton otherwise designates as set forth in each respective Purchase Order.

(2) Upon learning of any potential delivery delays, ANDERSEN shall notify ETON as to the cause of such delays and the actions taken by ANDERSEN to resolve such delays. If ANDERSEN fails to make deliveries at the specified time and such failure is not caused by ETON, ANDERSEN shall, at no additional cost to ETON, employ accelerated measures such as material expediting fees, premium transportation costs, or labor overtime required to meet the specified delivery schedule or minimize the lateness of deliveries.

6. DELIVERY AND ACCEPTANCE

6.1 Deliveries. Failure to deliver the Product of the quality and quantity in accordance with this Agreement or by the scheduled shipment date stated in the applicable Purchase Order shall, at the option of ETON, relieve it of any obligation to accept and pay for any of the Product which is not of proper quality or quantity (product not delivered or shorted) under such Purchase Order, as well as any undelivered shipments, if any. Any failure by ETON to exercise its option with respect to any shipment of the Product as set forth in this Section 6 shall not be deemed to constitute a waiver with respect to subsequent shipments.

6.2 Batch Certifications. ANDERSEN or a duly authorized representative (CMO) shall (i) conduct quality control tests on the API and the Product prior to shipment in accordance with all applicable laws, regulations and requirements set forth in the ANDA specifications, and all applicable test methods; (ii) at ETON's request, furnish samples of the API or Product to ETON; and (iii) deliver with each shipment of Product, a Certificate of Analysis for each Product lot included in a shipment in accordance with the Specifications.

6.3 Acceptance of Product.

(1) Eton may examine and test Product as it sees fit and may reject Product provided hereunder by ANDERSEN if such Product is defective for any reason, adulterated or misbranded in any manner, or otherwise poses a threat of harm to the public (including, without limitation, by failing to meet the requirements of this Agreement, the Quality Agreement , any Applicable Law, the Specifications or the ANDA's requirements) (collectively, a "Product Defect"); provided, however that Eton shall give written notice to ANDERSEN of its rejection of any Product hereunder, together with appropriate documentation for its decision (a "Rejection Notice"), within fifteen (15) days after Eton's receipt of shipment of such Product. The Rejection Notice shall specify the grounds for rejection. If such Rejection Notice is not received within fifteen (15) days after Eton's receipt of any Product, such Product shall be deemed to be accepted by Eton. However, any Product Defect that would not be discoverable upon a reasonable inspection of a Product (a "Hidden Defect") will not be deemed accepted by Eton at any time. As soon as possible but not exceeding the shelf life of any Product, if either Party becomes aware of a Hidden Defect in such Product, it will, within five (5) business days of becoming aware of such Hidden Defect, notify the other Party in writing about all Product involved (a "Hidden Defect Rejection Notice"). At Eton's discretion, any Product subject to a Hidden Defect shall be deemed rejected as of the date of any such Hidden Defect Rejection Notice.

(2) ANDERSEN may dispute a Rejection Notice or Hidden Defect Rejection Notice by providing written notice to Eton of the dispute within fifteen (15) days after receipt of such Rejection Notice or Hidden Defect Rejection Notice (as applicable), which notice from ANDERSEN shall specify, in reasonable detail, the grounds for the dispute.

(3) If a Rejection Notice or Hidden Defect Rejection Notice for any Product is not disputed by ANDERSEN as set forth in Section 6.3(2) above or if, in the event of a rejection dispute between the Parties, the contract laboratory referred to in Section 6.3(4) below gives a decision in favor of Eton, then:

(a) Eton may withhold all payment for the rejected Product;

(b) where payment for the rejected Product has been made, ANDERSEN will promptly issue a full credit or pay a full refund (as selected by ETON) to ETON for the rejected Product;

(c) ANDERSEN will promptly pay to ETON any and all reasonable out-of- pocket costs and expenses resulting from the Product Defect, Hidden Defect or Product rejection, including but not limited to customer failure- to-supply penalties and destruction costs; and

(d) ANDERSEN will promptly supply ETON with conforming Product in replacement of the rejected Product.

(4) If there is a dispute between the Parties with respect to the rejection of Product, the Parties will first seek to amicably resolve the dispute among themselves. If, after thirty (30) days, the Parties believe that the dispute cannot be amicably resolved, then the Parties shall mutually agree on a contract laboratory to conduct further testing of rejected Product in or order for the laboratory to determine whether the rejected Product meets the requirements for rejection set forth in Section 6.3(1). The Party whose conclusions are not borne out by the laboratory shall bear the cost of such testing. If the contract laboratory gives a decision in favor of ANDERSEN, Eton shall promptly pay for the Product subject to the dispute, if such payment had not earlier been made; if the contract laboratory gives a decision in favor of Eton, ANDERSEN shall immediately perform its obligations pursuant to Section 6.3(3). The decision of the contract laboratory, to the extent dispositive of a Product rejection dispute between the Parties, shall be binding upon the Parties with respect to such rejection dispute; any other or further disputes between the Parties with respect to Product conformance with Specifications, other representations and warranties made by a Party herein, or other matters will be addressed in accordance with Sections 9.1, 9.2, 9.3, and 11.2.

7. INTELLECTUAL PROPERTY RIGHTS

7.1 Branding of Product.

(1) ANDERSEN shall label and package all Product in accordance with the respective labeling approved by ETON and in accordance with Applicable Laws. Once approved by ETON, ANDERSEN will not change in any manner any labeling of any Product manufactured by ANDERSEN for ETON without the prior written consent of ETON.

(2) ETON's Insignia shall be affixed to the Product as directed by ETON. All related sales brochures, marketing materials, and packaging shall only bear ETON's Insignia as directed by ETON. However, ANDERSEN or its assign shall have the right to private label Product for an Andersen Device, subject to the terms and conditions of this Agreement. All other sales channels shall bear ETON's Insignia.

(3) ETON shall design at its own expense and in compliance with Applicable Law, the Product labeling for ETON-labeled Product, and ANDERSEN shall design at its own expense and in compliance with Applicable Law, the Product labeling for ANDERSEN-labeled Product.

(4) ANDERSEN shall be responsible for submission of all marketing and promotional materials utilized by either Party to FDA as required by Applicable Law; provided that ETON shall provide ANDERSEN with copies of any such materials utilized by ETON, in a form appropriate for submission to FDA, at least twenty (20) business day prior to ETON'S first use of such materials

(5) ETON grants to ANDERSEN during the Term a non-exclusive, non-transferable, non-assignable, indivisible, revocable and terminable license, without the right to sublicense, to use the ETON Insignia in the Territory as specifically directed by ETON in writing, and only to the extent necessary to label and brand the Product and related sales brochures, marketing materials, and packaging pursuant to ETON's specifications, and for no other purposes. Such ETON Insignia will not be affixed, used, or otherwise displayed on the Product or in connection therewith without the prior written approval of ETON.

(6) Notwithstanding any of the provisions of this Agreement, ANDERSEN shall not at any time do anything or act in any way that would or might adversely affect the value or validity of any ETON Insignia or other Intellectual Property Rights belonging to ETON. ANDERSEN shall immediately notify ETON in writing upon becoming aware of any infringement, misappropriation or imitation of any Intellectual Property Rights of ETON or of any facts that ANDERSEN believes might constitute infringement, misappropriation or imitation thereof. All uses of ETON's Insignia shall inure exclusively to ETON's sole benefit.

7.2 Confidentiality. The Receiving Party shall keep the Disclosing Party's Confidential Information confidential and shall not directly or indirectly, use, divulge, publish or otherwise disclose or allow to be disclosed any aspect of the Disclosing Party's Confidential Information, except (i) with the Disclosing Party's prior written consent, (ii) as permitted by this Agreement or (iii) to the Receiving Party's Representatives (as defined below) who need to know such Confidential Information for the purposes of this Agreement, provided that prior to such disclosure to such a Representative, the Representative shall be bound by obligations of confidentiality to the Receiving Party at least as restrictive as those of this Agreement and shall be advised of the confidential nature of such information. The Receiving Party will be responsible for any breach of this Section 7.2 resulting from the conduct of its Representatives. "Representative" of a Party means such Party's Affiliates and its and their officers, directors, employees, agents and advisors. Upon written request by the Disclosing Party, the Receiving Party shall promptly return to the Disclosing Party or, if elected by the Receiving Party, destroy, any Confidential Information of the Disclosing Party in the possession or control of the Receiving Party or its Representatives, provided that the Receiving Party may retain one (1) copy of such information to be used solely for determining the rights of the Parties hereunder or as required by Applicable Law and may retain copies thereof in its information technology systems (all of which retained Confidential Information will remain subject to the terms and conditions of this Agreement). Notwithstanding anything to contrary herein, Confidential Information of the Disclosing Party shall not include any information that falls within any of the following exceptions, provided the Receiving Party produces credible written evidence to establish or otherwise establishes that such information:

(1) is or becomes part of the public domain without breach of this Agreement by the Receiving Party or any of its Representatives;

(2) is independently developed or discovered by or for the Receiving Party without use of or reference to Confidential Information of the Disclosing Party;

(3) is received from a third party who lawfully acquires such information without an obligation of confidentiality, and without breach of this Agreement by the Receiving Party; or

(4) was in the Receiving Party's possession without an obligation of confidentiality to the Disclosing Party prior to the disclosure by the Disclosing Party.

If the Receiving Party or any of its Representatives becomes required pursuant to Applicable Law, any rule or regulation (including, without limitation, subpoena, civil investigative demand, compulsory process or other legal requirement) to disclose any Confidential Information of the Disclosing Party, then (i) the Receiving Party will promptly notify the Disclosing Party in writing thereof and will cooperate with the Disclosing Party, at the Disclosing Party's expense, in seeking a protective order or confidential treatment and (ii) the Receiving Party and its Representatives may disclose such Confidential Information to the extent so required.

7.3 The Disclosing Party would be irreparably injured by a breach of Section 7.2 by the Receiving Party, and such a breach would not be compensable in money damages. Accordingly, in addition to any other rights and remedies of the Disclosing Party pursuant to this Agreement and Applicable Law, the Disclosing Party shall be entitled to seek injunctive and other equitable relief with respect to any breach or threatened breach of Section 7.2.

7.4 The rights and obligations of the Parties pursuant to Section 7.2 will terminate five (5) years after the termination or expiration of this Agreement.

8. WARRANTIES

8.1 ETON Representations and Warranties. ETON represents, warrants and covenants: (i) that it has the full power, right and authority to execute and deliver this Agreement and that it shall use commercially reasonable best efforts to perform its obligations hereunder; (ii) that it will assign to its performance of this Agreement professional personnel, qualified to perform the process procedures consistent with the technical requirements of this Agreement; (iii) that none of the ETON personnel to be assigned to this Agreement have or shall have been subject to debarment under the United States Generic Drug Enforcement Act or any other penalty or sanction by FDA; and (iv) ETON will comply (and will cause any agents, subcontractors or other third parties conducting business relating to the ANDA on ETON's behalf to comply) with the requirements of GDUFA that are applicable to ETON.

8.2 ANDERSEN Representations and Warranties. ANDERSEN represents, warrants and covenants: (i) that it has the full power, right and authority to execute and deliver this Agreement and that it shall use commercially reasonable best efforts to perform its obligations hereunder; (ii) that it will assign to its performance of this Agreement professional personnel, qualified to perform the process procedures consistent with the technical requirements of this Agreement; (iii) that none of the ANDERSEN personnel to be assigned to this Agreement have or shall have been subject to debarment under the United States Generic Drug Enforcement Act or any other penalty or sanction by FDA or under any U.S. Federal or State healthcare program; (iv) that it will manufacture and supply the Product in conformity with, and otherwise perform its obligations hereunder in accordance with, and it will cause the CMO to perform in accordance with, all Applicable Laws (including but not limited to cGMP and all applicable FDA regulatory requirements), the Quality Agreement, this Agreement and generally accepted professional standards; (v) that all rights granted to ETON under this Agreement will not conflict with those granted to any third-parties; (vi) that all data, information, results of experimentation and testing incorporated by Andersen into an NDA or ANDA prepared in accordance with this Agreement are accurate and complete in all respects; and (vii) that ANDERSEN will comply (and will cause CMO, and any agents, subcontractors or other third parties conducting business relating to the ANDA on ANDERSEN's behalf to comply) with the requirements of GDUFA that are applicable to ANDERSEN, including, without limitation, all provisions relating to self-identification. ANDERSEN will ensure the payment of all applicable GDUFA facility and DMF fees, whether payable by ANDERSEN or CMO, its agent(s) or suppliers.

8.3 Product Warranties. ANDERSEN represents, warrants and covenants: (i) that the Product shall be free from defect in workmanship and materials; (ii) that the Product shall meet its Specifications; (iii) that, upon delivery of a Product and during such time as such Product was under ANDERSEN'S control, the Product will be in conformity with Applicable Law and the Quality Agreement, and shall not be adulterated, misbranded, misused, contaminated, tampered with or otherwise altered, mishandled, or subjected to negligence; and (iv) that title to all Products delivered hereunder shall pass to ETON concurrently with risk of loss, free and clear of all liens, encumbrances and other adverse claims. ANDERSEN additionally warrants that the Product supplied hereunder shall only be built using Components purchased from vendors approved by FDA pursuant to the ANDA.

8.4 Epidemic Failure Warranty. Notwithstanding anything else to the contrary herein, if the Product demonstrates an Epidemic Failure at any time during the Term, ANDERSEN will, without prejudice to any other remedies Eton may have, reimburse ETON for direct and incidental and consequential costs associated with the Epidemic Failure, including labor costs associated with implementation of a recovery plan to the extent and in the amount provided ANDERSEN from its compensation from ANDERSEN'S CMO Agreement. ETON will notify ANDERSEN whenever an Epidemic Failure is identified or suspected and work with ANDERSEN to develop a recovery plan, which may include a preventative action plan if appropriate under the circumstances. The recovery plan actually implemented by ETON is in ETON's sole discretion; provided, however that (i) ETON and ANDERSEN will work together to minimize costs associated with ETON's recovery plan as much as possible without compromising ETON's ability to aggressively respond to its customers' needs and Applicable Law; and (ii) ANDERSEN will reimburse ETON for costs incurred by ETON in implementing that portion of the recovery plan associated with the Epidemic Failure.

8.5 Infringement Warranty. ANDERSEN warrants that (a) neither the Product nor any of the Components, nor the use thereof, and none of the manufacturing processes or methods employed or to be employed at a manufacturing facility violates or will violate or infringe upon or misappropriate the Intellectual Property Rights of any third party; and (b) there is neither pending nor threatened any claim, litigation or proceeding in any way contesting ANDERSEN'S rights to manufacture or supply the Product or attacking the validity or enforcement of any ANDERSEN Intellectual Property Rights related to its manufacturing processes or methods employed or to be employed at the ANDERSEN manufacturing facility.

9. ALLOCATION OF RISK

9.1 ANDERSEN Indemnification Obligations. ANDERSEN shall indemnify, defend and hold harmless ETON, and its Affiliates, and their respective officers, directors, shareholders, employees, agents and representatives (collectively "ETON Indemnitees") for, from and against all third-party claims, damages, liabilities, losses and other expenses, including but not limited to reasonable attorneys' fees and costs (collectively, "Third Party Claims"), whether or not a lawsuit or other proceeding is filed, to the extent arising out of or caused by (i) any dispute or claim that the Product, its design or any of its elements, or any ANDERSEN manufacturing processes or methods employed or to be employed by or on behalf of ANDERSEN or the CMO, infringe, misappropriate or violate any third party's Intellectual Property Rights; (ii) product liability claims, injury to or death of persons or damage to property that may have been caused, or that may be alleged to have been caused, directly or indirectly, by ANDERSEN, the CMO or any the manufacturing, storage or transportation processes or methods employed or to be employed at a manufacturing facility used by or on behalf of, ANDERSEN, the CMO, any Affiliate thereof, any subcontractor of ANDERSEN, the CMO or any of their Affiliates, or any of their respective employees or agents; (iii) any defect in the Product, its design, manufacture, or other failure of the Product to comply with its respective Specifications, Applicable Law (including, without limitation, cGMPs) or the other requirements of this Agreement, including but not limited to any costs associated with Product recalls; (iv) any negligent act or omission, recklessness, willful misconduct or fraud of ANDERSEN, the CMO, or any of their respective agents, or subcontractors; (v) any breach of any representation, warranty, or covenant of this Agreement by ANDERSEN, whether resulting from the conduct of ANDERSEN, the CMO or otherwise; (vi) ANDERSEN's or the CMO's failure to fully conform to all Applicable Laws, ordinances, rules and regulations which affect the Product, its use, or any part thereof or that are otherwise applicable to ANDERSEN or the CMO (including, without limitation, cGMPs), or (vii) any claim of a third party that any right granted to ETON under this Agreement is in conflict with any of the rights granted to such third party or otherwise infringes, conflicts with, breaches or results in a default under any agreement to which such third party is or claims to be entitled; provided, however, that ANDERSEN shall have no such obligation to indemnify, defend or hold harmless with respect to any Third Party Claim to the extent such Third Party Claim is caused by the recklessness, willful misconduct or fraud of any ETON Indemnitee, or ETON's breach of this Agreement.

9.2 ETON Indemnification Obligations. ETON shall indemnify, defend and hold harmless ANDERSEN, and its affiliates, and their respective officers, directors, shareholders, employees, agents and representatives (collectively "ANDERSEN Indemnitees") for, from and against all Third Party Claims, whether or not a lawsuit or other proceeding is filed, to the extent arising out of or caused by (i) any dispute or claim that any of ETON Insignia or any of their elements infringe or violate any third party's Intellectual Property Rights; (ii) any negligent act or omission, recklessness, willful misconduct or fraud of ETON, its agents, or Affiliates; (iii) any breach of any representation, warranty, or covenant of this Agreement by ETON; or (iv) ETON's failure to fully conform to Applicable Laws which affect the Product, its use, or any part thereof or that are otherwise applicable to ETON; provided, however, that ETON shall have no such obligation to indemnify, defend or hold harmless with respect to any Third Party Claim to the extent such Third Party Claim is caused by the recklessness, willful misconduct or fraud of any ANDERSEN Indemnitee, or ANDERSEN's breach of this Agreement.

9.3 Indemnification Procedures. If a Party (the "Indemnified Party") believes it is entitled to indemnification and defense pursuant to Section 9.1or 9.2 with respect to a Third Party Claim, it will notify the other Party (the "Indemnifying Party") in writing promptly after it becomes aware of such Third Party Claim (provided that the failure of the Indemnified Party to so provide such notice will not relieve the Indemnifying Party of its obligations under Section 9.1or 9.2, except to the extent the Indemnifying Party is actually prejudiced thereby). Within thirty (30) days after receipt of such notice, the Indemnifying Party will, upon written notice thereof to the Indemnified Party, assume sole control of the defense of such Third Party Claim with counsel selected by the Indemnifying Party (which may be, at the Indemnifying Party's election, the Indemnifying Party's in-house litigation counsel). If the Indemnifying Party believes that a Third Party Claim presented to it for indemnification and defense is one as to which the Indemnified Party is not entitled to indemnification and defense, it will so notify the Indemnified Party. The Indemnified Party may participate in such defense with counsel it selects, all at the Indemnified Party's own expense. The Indemnified Party will provide the Indemnifying Party, at the Indemnifying Party's expense, with reasonable assistance and cooperation as reasonably requested by the Indemnifying Party. Neither Party will agree to any settlement of any Third Party Claim or consent to any judgment in respect thereof without the other Party's prior written consent, which will not be unreasonably withheld, delayed or conditioned.

9.4 Insurance. Each Party shall obtain, at its expense, the following minimum insurance coverages during the term of this Agreement and for five (5) years thereafter:

(1) For ANDERSEN, the following insurance coverages:

(i) worker's compensation insurance as required by applicable law;

(ii) product liability insurance with respect to the Product with a minimum of Five Million Dollars ($5,000,000) per occurrence and Five Million Dollars ($5,000,000) annual aggregate for bodily injury and property damage;

(iii)) commercial general liability insurance with a minimum of Five Million Dollars ($5,000,000) per occurrence and Five Million Dollars ($5,000,000) annual aggregate and

(iv) property insurance (sufficient to fully cover the cost of replacement), through the designated freight carrier or otherwise, on all of the Products at all times until receipt by Eton.

If requested by Eton, ANDERSEN will supply its certificate of insurance to evidence such coverages.

(2) For ETON, the following insurance coverages:

(i) worker's compensation insurance as required by applicable law;

(ii) product liability insurance with respect to the Product with a minimum of Five Million Dollars ($5,000,000) per occurrence and Five Million Dollars ($5,000,000) annual aggregate for bodily injury and property damage; and

(iii)) commercial general liability insurance with a minimum of Five Million Dollars ($5,000,000) per occurrence and Five Million Dollars ($5,000,000) annual aggregate.

If requested by ANDERSEN, Eton will supply ANDERSEN with a certificate of insurance to evidence such coverage.

9.5 Limitation of Liability. NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, EXCEPT FOR ANDERSEN'S OBLIGATION TO REIMBURSE ETON FOR ALL INCIDENTAL AND CONSEQUENTIAL COSTS, IN THE CASE OF AN EPIDEMIC FAILURE, NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, WHETHER FORESEEABLE OR NOT, THAT ARE IN ANY WAY RELATED TO THIS AGREEMENT. FOR THE AVOIDANCE OF DOUBT, THE LIMITATIONS IN THIS SECTION WILL NOT APPLY TO THE OBLIGATIONS OF THE PARTIES TO INDEMNIFY, DEFEND AND HOLD HARMLESS PURSUANT TO SECTION 9.1 AND 9.2 OR THE CONFIDENTIALITY OBLIGATIONS PURSUANT TO SECTION 7.2.

10. TERM AND TERMINATION

10.1 Term. This Agreement shall commence on the Effective Date and shall continue for a period of five (5) years from the launch date of ETON-labeled Product in the Territory, unless earlier terminated by mutual written agreement of the Parties or under Section 10.3 (the "Term"). The Term shall also include any renewal term pursuant to Section 10.2 below.

10.2 Renewal Term. This Agreement shall automatically renew for successive two (2) year terms unless written intent to terminate by either side is given at least six (6) months prior to the end of the current term.

10.3 Termination.

(1) In the event of a material breach of this Agreement by either Party, the non- breaching Party may provide written notice of such breach to the breaching Party, including a description of the breach, and indicating the non-breaching Party's intent to terminate this Agreement. The breaching Party will have sixty (60) days from its receipt of such notice to cure the breach, provided the breach is capable of being cured within the sixty (60) day period. If the breaching Party fails to cure the breach within such period, then unless otherwise agreed by the non-breaching Party, this Agreement will terminate on the date that is sixty (60) days following the breaching Party's receipt of the notice of breach from the non- breaching Party. If the breach is not capable of being remedied within sixty (60) days, the Agreement terminates upon the written notice.

(2) Eton may terminate the Agreement upon ten (10) days of ETON's written notice to ANDERSEN regarding the rejection of the NDA or ANDA from the FDA due to a breach by ANDERSEN of any of its obligations, warranties or covenants hereunder, including, without limitation, ANDERSEN'S (or any manufacturer's, including but not limited to CMO's) failure to comply with cGMP, any delivery deadlines set forth in any schedule provided by ETON in writing, or otherwise comply with approved specifications for Product, regardless whether such failure is due to ANDERSEN'S negligence or misconduct, the negligence or misconduct of any party assigned any portion of ANDERSEN'S obligations under this Agreement (irrespective if such negligent party was pre-approved by ETON pursuant to Section 4.1 above) or otherwise.

(3) Bankruptcy or Insolvency. If either party shall (a) become bankrupt or insolvent, (b) file for a petition thereof, (c) make an assignment for the benefit of creditors, or (d) have a receiver appointed for its assets, which appointment shall not be vacated within sixty (60) days after the filing, then the other party shall be entitled to terminate this Agreement forthwith by written notice to such party.

10.4 Effect of Termination.

(1) On expiry or termination of this Agreement, all licenses to use ETON Insignia hereunder shall automatically revert to ETON. In addition, during the Term, and provided that ETON did not terminate this Agreement pursuant to Section 10.2, for a period of three (3) years after termination of the agreement, ETON shall not directly, or indirectly, by itself, or jointly with others, own, manage, operate, control, render services or otherwise be associated or affiliated with any business or enterprise which competes with ANDERSEN in regards to Product.

(2) If this Agreement expires or terminates for any reason other than its termination by ANDERSEN pursuant to Section 10.2, Eton shall be permitted to submit a final Purchase Order (prior to termination or expiry of the Agreement) for Product to fulfill its current customer obligations, not to exceed a volume greater than twelve (12) months of forecasted Product.

(3) If ANDERSEN terminates this Agreement pursuant to Section 10.2, Eton shall be permitted to submit a final Purchase Order for Product to fulfill its current customer obligations, not to exceed a volume greater than twelve (12) months of forecasted Product.

(4) All rights and remedies conferred herein shall be cumulative and in addition to all of the rights and remedies available to each Party at law, equity or otherwise.

(5) Survival of Rights. The expiration or termination of this Agreement shall not relieve either Party of its obligation to pay any payments due to the other Party under the terms of this Agreement which have accrued prior to the effective date of such expiration or termination. At the expiration or termination of this Agreement, (except Profit Split Payments, which are addressed in Section 10.3(6) below) these amounts will be estimated by mutual written agreement of the parties and included in the final settlement of payments due from one party to the other. The following Sections of this Agreement, together with any related defined terms and exhibits and schedules hereto, will survive any termination of this Agreement: 2.2, 4.4, 4.5, 4.6, 7.2, 7.3, 7.4, 8, 9, 10.3 and 11. Termination of this Agreement will not release a Party from any liabilities (including, without limitation, liabilities for breach) that, as of the effective date of such termination, have already accrued or that are based upon any event occurring prior to such termination.

(6) Profit Split Payments. Termination of this Agreement shall not affect a Party's entitlement to Profit Split payments from AGP that accrue prior to the date of termination or that accrue after termination with respect to Product supplied hereunder prior to the date of termination, provided that the uncured breach, status or actions of the Party causing such termination do not impair its entitlement to such Profit Split payments.

For Product supplied by ANDERSEN under this Agreement that is sold by Eton following termination of this Agreement, the Profit Split will be calculated and continue to be paid as set forth in this Agreement, if applicable. If, following termination of this Agreement, there are any chargebacks or accrued costs that are not attributable to the conduct of either Party (such as unsold Product inventory and Product destruction costs), then such chargebacks or other costs will be shared by the Parties in accordance with the Profit Split (50% Eton, 50% ANDERSEN); ETON will invoice ANDERSEN for ANDERSEN's share of such costs; and ANDERSEN will pay each such invoice within thirty (30) days after its receipt of the invoice.

11. GENERAL TERMS

11.1 Relationship of Parties. The relationship between ANDERSEN and ETON, with respect to this Agreement, is only that of independent contractors notwithstanding any activities set forth in this Agreement. Neither Party is the agent or legal representative of the other Party, and neither Party has the right or authority to bind the other Party in any way. This Agreement creates no relationship as partners or a joint venture, and creates no pooling arrangement.

11.2 Governing Law and Resolution of Disputes.

(1) This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, U.S.A., without reference to its conflict of laws principles.

(2) Any and all disputes or claims arising or out of this Agreement shall be litigated exclusively before a court of the State of Delaware, U.S.A. or, if subject matter jurisdiction exists, the United States District Court for the District of Delaware. Each party hereto hereby irrevocably and unconditionally consents to the exclusive personal jurisdiction and service of, and venue of, any such court, and further irrevocably and unconditionally waives and agrees not to plead or claim that any action, lawsuit or proceeding brought in any such court has been brought in an inconvenient forum. Any judgment issued by such a court may be enforced in any court having jurisdiction.

11.3 Assignment. Neither party shall assign its rights or obligations under this Agreement without the prior written consent of the other party, which shall not be unreasonably withheld or delayed; provided, however, that a party may, without such consent, assign this Agreement and its rights and obligations hereunder (a) to any Affiliate, or (b) in connection with the transfer or sale of all or substantially all of its business to which this Agreement relates, or in the event of its merger, consolidation, change in control or similar transaction. Any permitted assignee shall assume all obligations of its assignor under this Agreement. Any purported assignment in violation of this Section 11.3 shall be void.

11.4 Counterparts. This Agreement may be executed in several counterparts that together shall be originals and constitute one and the same instrument.

11.5 Waiver. The failure of any Party to enforce any of its rights hereunder or at law shall not be deemed a waiver of any of its rights or remedies against another Party, unless such waiver is in writing and signed by the Party to be charged. No such waiver shall be deemed a waiver of any subsequent breach or default of the same or similar nature or any other breach or default by such other Party.

11.6 Severability. If any provision of this Agreement, or part thereof, is declared by a court of competent jurisdiction to be invalid, void or unenforceable, each and every other provision, or part thereof, shall nevertheless continue in full force and effect.

11.7 Notices. All notices or communications given pursuant to this Agreement shall be in writing, if to Eton, addressed to the attention of CEO, Eton Pharmaceuticals, Inc., 21925 Field Pkwy, Suite 235, Deer Park, IL 60010, and if to ANDERSEN to the attention of Christian Eidnes, Andersen Pharma, LLC, 160 Greentree Drive, Suite 101, Dover, Delaware 19904, and shall be: (a) hand delivered, (b) sent by prepaid express courier service, or (c) sent by electronic mail (e-mail) or facsimile transmission. A Party may change its address for the receipt of notices and communications hereunder by providing the other Party with written notice thereof given in accordance with this Section 11.7. All notices and other communications shall be deemed given when received.

11.8 Further Assurances. The Parties agree to execute such additional documents and perform such acts as are reasonably necessary to effectuate the intent of this Agreement.

11.9 Compliance With Laws. Each Party agrees to comply with (and ANDERSEN shall ensure the compliance of CMO with) all Applicable Laws, including, without limitation, GDUFA or PDUFA, cGMPs and state licensing laws, in its performance under this Agreement.

11.10 Entire Agreement. This Agreement, including all exhibits and attachments, constitutes the entire agreement between the Parties regarding the subject matter hereof, and supersedes all prior or contemporaneous understandings or agreements regarding the subject matter hereof, whether oral or written. This Agreement shall be modified or amended only by a writing signed by both ETON and ANDERSEN.

11.11 Authority. The parties executing this Agreement on behalf of ETON and ANDERSEN represent and warrant that they have the authority from their respective governing bodies to enter into this Agreement and to bind their respective companies to all the terms and conditions of this Agreement.

11.12 Force Majeure. Neither Party shall be liable for delays in its performance caused by events beyond its control, such as fires, floods, labor shortages, strikes, epidemics, computer virus, earthquakes, riots, acts of terror, acts of God, storms, acts of civil or military authority or similar occurrences, provided the affected Party gives the other Party written notice of such event within three (3) business days of its occurrence. Such notice shall state the estimated duration of such event and the cause thereof and the affected Party shall use commercially reasonable efforts to work around such event beyond its control.

11.13 Headings and Construction. No rule of construction will be applied to the disadvantage of a party because that party was responsible for the preparation of this Agreement or any part of this Agreement. The Article and Section headings in this Agreement are for convenient reference only, and will be given no substantive or interpretive effect. With respect to all terms used in this Agreement, words used in the singular include the plural and words used in the plural include the singular. The word 'including' means including without limitation, and the words 'herein', 'hereby', 'hereto' and 'hereunder' refer to this Agreement as a whole. Unless the context otherwise requires, references found in this Agreement: (i) to Articles and Sections mean the Articles and Sections of this Agreement, as amended, supplemented and modified from time to time; (ii) to an agreement, instrument or other document means such agreement; (iii) to an agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time, to the extent provided by the provisions thereof and by this Agreement; and (iv) to a statute or a regulation mean such statute or regulation as amended from time to time.

11.14 Drug Supply Chain Security Act.

(1) Capitalized terms used in this Section 11.14 will have the meanings set forth in the Drug Supply Chain Security Act of 2013, 21 U.S.C. Section 360eee, et seq., and the rules, regulations and guidance thereunder, all as amended from time to time (collectively, the "DSCSA").

(2) Each Party agrees to comply with all provisions of the DSCSA applicable to such Party. Upon any amendment of the DSCSA or the issuance of rules, regulation or guidance thereunder, the Parties will reasonably cooperate with each other to amend this Agreement, as necessary, in order to permit each Party to comply with its obligations pursuant to the DSCSA.

(3) With respect any Product provided by ANDERSEN under this Agreement, ANDERSEN will provide to Eton, in such form and format as Eton shall reasonably request from time to time, any information required by Eton to complete and provide, in accordance with the DSCSA, Transaction Information and Transaction History for such Product (including, without limitation, lot-level information and, when required under DSCSA, Product Identifier information).

(4) ANDERSEN, through CMO, will affix or imprint a Product Identifier to each package and homogenous case of Product provided by ANDERSEN under this Agreement. In connection with ANDERSEN's performance pursuant to this Section 11.14(4), ANDERSEN will reasonably cooperate with Eton (including, without limitation, cooperating to implement Product Identifiers and related information technology that are compatible with Eton's systems and industry standards, and that comply with the DSCSA).

(5) ANDERSEN, through CMO, will implement and have in place systems to enable ANDERSEN, through CMO, to engage in the actions and perform the procedures set forth in 21 U.S.C. Section 360eee-1(b)(4) and Section 360eee-1(g)(1) and the rules, regulations and guidance thereunder (all as amended from time to time) to the same extent as if ANDERSEN were the manufacturer referred to therein. Upon Eton's request, ANDERSEN, through CMO, will engage in such actions and perform such procedures and will, as reasonably requested by Eton, cooperate with Eton and Eton's designees in connection therewith (such cooperation to include, without limitation, providing any additional requested information).

(6) ANDERSEN acknowledges that the DSCSA may require that Eton provide information to the FDA, other government agencies or Trading Partners within twenty-four (24) hours after the occurrence of events specified in the DSCSA or within twenty-four (24) hours after request. Accordingly, if Eton requests additional information, ANDERSEN, through CMO, will provide such information to Eton in a timely manner in order to enable Eton to provide such information in compliance with the DSCSA.

(7) ANDERSEN, through CMO, will keep and maintain records of its performance under this Section 11.14 for not less than six (6) years after such records are generated or such longer period as may be required under the DSCSA.

[Signatures on Following Page]

IN WITNESS WHEREOF, the parties have executed this Agreement by their authorized representatives effective as of the Effective Date.

ETON PHARMACEUTICALS, INC.	ANDERSEN PHARMA, LLC
By: */s/ Sean Brynjelsen*	By: */s/ Christian Eidnes*
Name: Sean Brynjelsen	Name: Christian Eidnes
Title: CEO	Title: President

EXHIBIT A

PRE-APPROVED MANUFACTURING FACILITIES

PRE-APPROVED FACILITY	MANUFACTURE/PERFORM THE FOLLOWING
Specified in NDA or ANDA filing	Manufacture API
Specified in NDA or ANDA filing	Complete/Prepare Finished Dosage form of Product

EXHIBIT B

FORM OF ASSET PURCHASE AGREEMENT

[ATTACHED]

EXHIBIT B

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this "Agreement") dated as of the last date provided for on the signature page herein (the "Effective Date"), is entered into between ANDERSEN PHARMA, LLC, a Delaware limited liability company ("Andersen"), with a place of business at 160 Greentree Drive, Suite 101, Dover, Delaware 19904 and ETON PHARMACEUTICALS, INC., a Delaware corporation ("Eton"), with a place of business at 21925 Field Pkwy, Suite 235, Deer Park, Illinois 60010. The parties hereby agree as follows:

1. Definitions. For the purposes of this Agreement, the following terms shall have the respective meanings set forth below and grammatical variations of such terms shall have corresponding meanings:

1.1 "Affiliate" shall mean, with respect to any Person, any other Person which directly or indirectly controls, is controlled by, or is under common control with, such Person. A Person shall be regarded as in control of another Person if it owns, or directly or indirectly controls, more than fifty percent (50%) of the voting stock or other ownership interest of the other Person, or if it directly or indirectly possesses the power to direct or cause the direction of the management and policies of the other Person by any means whatsoever.

1.2 "ANDA" shall mean an Abbreviated New Drug Application, or similar application for marketing approval of a Product submitted to the FDA.

1.3 "Assets" shall mean, collectively, (a) the Technology; (b) all discoveries, inventions, technology, compositions, formulations, samples, components, processes, standards, methods, procedures and techniques relating thereto; (c) all formulae, data, information, results of experimentation and testing, and other know-how, whether or not patentable or copyrightable, relating thereto; (d) all product registrations and applications therefor relating thereto; (e) all Contracts (as defined in Section 3.7); and (f) all intellectual property rights and other assets relating thereto; in each case, that is owned or controlled by, or is in the possession of Andersen.

1.4 "Encumbrance" or "Encumbrances" shall mean any encumbrance, lien, charge, hypothecation, pledge, mortgage, adverse claim, option, preemptive right, or other security interest of any nature, or any contract, covenant, arrangement, agreement, instrument or commitment to create any of the foregoing.

1.5 "FDA" shall mean the Food and Drug Administration of the United States or any successor thereto.

1.6 "Knowledge of Andersen" or "Andersen's Knowledge" shall mean the actual knowledge of any director, officer, or employee of Andersen and the Knowledge such individuals would reasonably be expected to obtain in the course of diligently performing his or her duties for Andersen and/or making a reasonable inquiry into the matters contemplated by this Agreement.

1.7 "Licensee" shall mean a Third Party to whom Eton or its Affiliate has granted a license, immunity or other right under any intellectual property rights within the Assets to offer to sell, sell or otherwise commercialize one or more Products, provided such license has not expired or been terminated.

1.8 "NDA" shall mean a New Drug Application, or similar application for marketing approval of a Product submitted to the FDA.

1.9 "Person" shall mean any individual, partnership, firm, corporation, association, trust, unincorporated organization or other entity, as well as any syndicate or group of any of the foregoing.

1.10 "Product" shall mean any product, in any form or formulation for injectable administration, containing ***, *** (***).

1.11 "Tax" or "Taxes" shall mean any and all federal, state, local and foreign taxes, assessments and other governmental charges, duties, impositions and liabilities, including taxes based upon or measured by gross receipts, income, profits, sales, use and occupation, and value added, ad valorem, transfer, franchise, withholding, payroll, recapture, employment, excise and property taxes as well as public imposts, fees and social security charges (including but not limited to health, unemployment and pension insurance), together with all interest, penalties and additions imposed with respect to such amounts and any obligation under any agreement or arrangement with any other Person with respect to such amounts and including any liability for taxes of a predecessor entity.

1.12 "Technology" shall mean, collectively, Product together with all methods of manufacture or use thereof.

1.13 "Third Party" shall mean any Person other than Eton, Andersen or their respective Affiliates.

2. Purchase and Sale of the Assets.

2.1 Assets. Subject to the terms and conditions of this Agreement, and specifically Section 2.1.1 herein, Eton hereby agrees to, and hereby does, purchase from Andersen, and Andersen hereby agrees to, and hereby does, sell, convey, transfer and assign to Eton, on the Effective Date, all of Andersen's right, title and interest in and to the Assets. Concurrently with the execution of this Agreement, Andersen shall deliver all required consents to Contracts (as defined in Section 3.7) as set forth on Exhibit A. To the extent necessary to comply with applicable privacy laws, Andersen shall have the right to redact patient identifying information from any data or information transferred to Eton.

***Text has been omitted pursuant to Registrant's confidential treatment request filed with the Securities and Exchange Commission ("Commission") pursuant to Rule 406 under the Securities Act of 1933. The omitted text has been filed separately with the Commission.

2.1.1 Device Market Rights. Andersen shall have the right to reference the Eton Product NDA or ANDA in an FDA registration of a medical drug/device combination (such combination, the "Andersen Device") (a) which device component has received independent approval from the FDA to be sold within the United States and (b) which combination is not competitive with a Product sold alone; *provided, however*, that if any Andersen Device is sold by Andersen or any related party or licensee which contains Product in any form or formulation for injectable administration, such Product shall be acquired and sourced only from Eton or its Affiliates or Licensees pursuant to a mutually accepted supply agreement at the then-current sale price for such Product.

2.1.2 Andersen NDA or ANDA Submission. In the event an NDA or ANDA for the Product is not submitted within three (3) years following the Effective Date (the "Eton Deadline Date"), Andersen shall have the right to submit an NDA or ANDA for the Product in its own name or in Eton's name; *provided, however*, the Eton Deadline Date may be extended for an additional one (1) year period for and in consideration of a payment by Eton to Andersen of One Hundred Thousand Dollars ($100,000) on or before the Eton Deadline Date.

2.2 No Assumption of Liabilities. Eton shall not be obligated to assume or perform and is not assuming or performing any liabilities or obligations of Andersen which relate to Andersen's ownership of the Assets prior to the Effective Date or otherwise, whether known or unknown, fixed or contingent, certain or uncertain, and regardless of when they are or were asserted, and Andersen shall remain responsible for and shall promptly pay such liabilities.

2.3 Transfer Documents. At such time as reasonably requested by Eton on or after the Effective Date, Andersen shall duly execute and deliver to Eton such additional bills of sale, assignment or other title transfer documents and instruments as reasonably requested by Eton evidencing the sale, conveyance, transfer and assignment of the Assets in accordance with this Agreement.

3. Representations and Warranties of Andersen. Andersen hereby represents and warrants to Eton, except as indicated on the disclosure schedules attached to this Agreement, as follows:

3.1 Authority and Binding Effect. Andersen has the full power and authority to execute and deliver this Agreement and other documents and instruments contemplated hereby. This Agreement and other documents and instruments contemplated hereby, and the consummation by Andersen of its obligations contained herein and therein, have been duly authorized by all necessary actions of Andersen, and this Agreement and other documents and instruments contemplated hereby have been duly executed and delivered by Andersen. This Agreement and other documents and instruments contemplated hereby are valid and binding agreements of Andersen, enforceable against Andersen in accordance with their respective terms.

3.2 Organization and Standing. Andersen is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Virginia. Andersen is qualified to do business in each jurisdiction where such qualification is necessary. Andersen has the requisite power and authority to conduct its business as now conducted, to own the Assets and to use such Assets in the conduct of its business. Andersen does not have, and has not at any time had, any Affiliates.

3.3 Assets.

3.3.1 Andersen has good and marketable title to each of the Assets, and each of the Assets is in Andersen's possession and held or controlled by Andersen free and clear of any Encumbrances (including any distribution rights and royalty rights). All Assets are and will be fully transferable, alienable or licensable by Eton without restriction and without payment of any kind to any Third Party.

3.3.2 All Assets are currently in compliance with applicable legal requirements and are not subject to any unpaid fees or taxes or actions falling due within ten (10) days after the Effective Date.

3.3.3 To the extent that any Assets were originally owned or created by or for any Person other than Andersen, (a) Andersen has obtained the complete, unencumbered and unrestricted right to effect the transfer of the Assets from Andersen to Eton and confirms that such transfer does not violate any such right to transfer; (b) no Third Parties have retained or otherwise have any rights or licenses with respect to the Assets; and (c) to the Knowledge of Andersen, no valid basis exists for any such Person to challenge or object to this Agreement or the transactions contemplated herein.

3.3.4 Andersen has not transferred ownership of, or granted any license, immunity or other right, or authorized the retention of any rights to any Assets to any Person.

3.3.5 Andersen is not required to make or accrue any royalty, milestone or other similar payment to any Third Party in connection with any of the Assets.

3.3.6 Neither the Assets nor exploitation of the Assets, including development and commercialization of any Product, infringe or misappropriate the intellectual property of any Third Party.

3.3.7 Andersen has taken all reasonable precautions to protect the secrecy, confidentiality and value of all Assets that comprise know-how, trade secrets, confidential or proprietary information, data, process technology and plans.

3.3.8 All data, information, results of experimentation and testing within the Assets are accurate and complete in all respects.

3.4 Conflicts and Consents. The execution and delivery by Andersen of this Agreement and the consummation of the transactions contemplated hereby will not (a) result in the loss or impairment of any of the Assets or (b) conflict with (i) any provision of the charter document or bylaws of Andersen, each as amended to date, (ii) contracts, covenants, arrangements, agreements, instruments, commitments, purchase orders or licenses to which Andersen or any of its properties or assets (including intangible assets) is subject, or (iii) any judgment, order, decree, statute, law, ordinance, rule or regulation applicable to Andersen or any of its properties or assets (tangible and intangible). It is not necessary for Andersen to take any action or to obtain any approval, consent or release by or from any Third Party, governmental or other, to enable Andersen to enter into or perform its obligations under this Agreement.

3.5 Litigation and Proceedings. There is no claim, action, suit, proceeding or investigation (or any counter or cross-claim in an action brought by or on behalf of Andersen), whether at law or in equity, or before or by any governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, or before any arbitrator of any kind, that is pending or, to Andersen's Knowledge, threatened, against Andersen, which (a) could reasonably be expected to adversely affect Andersen's ability to perform its obligations under this Agreement or complete any of the transactions contemplated hereby or (b) involves the possibility of any judgment or liability, or which may become a claim, against the Assets, Eton or its business. Andersen is not subject to any judgment, order, writ, injunction, decree or award of any court, arbitrator or governmental department, commission, board, bureau, agency or instrumentality having jurisdiction over Andersen or any of the Assets that affects, involves or relates to the Assets.

3.6 Compliance with Law/Permits. Andersen is in compliance with all, and is not in violation of any, law, ordinance, order, decree, rule or regulation of any governmental agency or authority, the violation of or noncompliance with which could have a material adverse effect on Andersen. No unresolved (a) charges of violations of laws or regulations relating to Andersen's business have been made or threatened, (b) proceedings or investigations relating to Andersen's business are pending or have been threatened, and (c) citations or notices of deficiency have been issued or have been threatened, against Andersen relating to or arising out of its business by any governmental authorities.

3.7 Contracts. Exhibit A lists all contracts, covenants, arrangements, agreements, instruments, commitments, purchase orders or licenses to which Andersen is a party as of the date hereof which arise out of or relate to the Assets except the Development and Supply Agreement effective as of May 9, 2017 (as amended or restated from time to time) between Andersen and *** (collectively, the "Contracts"). Andersen is not in violation of or in default under (nor is there existing conditions which with the passage of time either giving of notice or both would cause such a violation or default under) any such Contract. Each such Contract is in full force and effect, and has a legal, valid and binding obligation on Andersen, and to Knowledge of Andersen, each of the other parties thereto, and is enforceable in accordance with its terms. Andersen has not received notice that it is in violation or breach of or in default under any such Contract. Except as set forth on Exhibit A, no such Contract has a provision that would require consent, notice or the payment of money or transfer of property as a result of the transactions contemplated herein.

3.8 No Debarment. Neither Andersen, its (sub)contractors, nor any of its or their officers, directors, employees or consultants, have been debarred by the FDA or other applicable governing health authority (or authorities), under any existing or prior law or regulation.

***Text has been omitted pursuant to Registrant's confidential treatment request filed with the Securities and Exchange Commission ("Commission") pursuant to Rule 406 under the Securities Act of 1933. The omitted text has been filed separately with the Commission.

3.9 Full Disclosure. The representations and warranties made by Andersen in this Agreement and the schedules to be delivered pursuant to this Agreement do not contain any untrue statement of material fact or omit to state a material fact necessary to make any of them in the light of the circumstances in which they were made, not misleading.

4. Representations and Warranties of Eton.Eton represents and warrants to Andersen as follows:

4.1 Authority and Binding Effect. Eton has the full corporate power and authority to execute and deliver this Agreement. This Agreement and the consummation by Eton of its obligations contained herein and therein, have been duly authorized by all necessary corporate actions of Eton, and this Agreement has been duly executed and delivered by Eton. This Agreement is a valid and binding agreement of Eton's, enforceable against Eton in accordance with its terms.

4.2 Organization and Standing. Eton is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware, and Eton is qualified to do business in each jurisdiction where such qualification is necessary and where the failure to be so qualified would have a material adverse effect on Eton. Eton has the requisite corporate power and authority to conduct its business as now conducted.

4.3 Conflicts; Consents. The execution and delivery by Eton of this Agreement and the consummation of the transactions contemplated hereby, will not give rise to a Conflict with respect to (a) any provision of the certificate of incorporation or bylaws of Eton, each as amended to date, (b) contracts, covenants, arrangements, agreements, instruments, commitments, purchase orders or licenses to which Eton or any of its properties or assets (including intangible assets) is subject, or (c) any judgment, order, decree, statute, law, ordinance, rule or regulation applicable to Eton or any of its properties or assets (tangible and intangible), except in any such case where it would not have a material adverse effect on Andersen's rights under the Assets. It is not necessary for Eton to take any action or to obtain any approval, consent, or release by or from any Third Party, governmental or other, to enable Eton to enter into or perform its obligations under this Agreement.

4.4 Compliance with Law/Permits. Eton is in compliance with all, and is not in violation of any, law, ordinance, order, decree, rule or regulation of any governmental agency or authority, the violation of or noncompliance with which could have a material adverse effect on Andersen. No unresolved (a) charges of violations of laws or regulations relating to Eton's business have been made or threatened, (b) proceedings or investigations relating to Eton's business are pending or have been threatened, and (c) citations or notices of deficiency have been issued or have been threatened, against Eton relating to or arising out of its business by any governmental authorities, which have had or could reasonably be expected to have, individually or in the aggregate, a material adverse effect on Eton.

5. Consideration. The consideration for the sale to Eton of the Assets under this Agreement shall consist of one dollar ($1.00), payable within thirty (30) days after the Effective Date by such method as mutually agreed between the Parties.

6. Andersen Covenants.

6.1 Transfer. Within thirty (30) days after the Effective Date, Andersen shall transfer to Eton all Assets (including any and all tangible embodiments thereof), including all items described on Exhibit B.

6.2 Further Assistance.

6.2.1 Andersen shall provide all cooperation reasonably requested by Eton in connection with any effort by Eton to establish, perfect, defend, or enforce its rights in or to the Assets. Such cooperation shall include (a) executing such further assignments, transfers, licenses, releases and consents, and (b) providing such data and information, consulting with Eton and executing and delivering all such further documents and instruments, in each case as requested by Eton regarding the Assets.

6.2.2 Andersen shall provide, and shall cause its employees, contractors and consultants to provide, all cooperation, technical assistance and support reasonably requested by Eton regarding (a) the exploitation of the Assets (including the research, development and production of any Product), and (b) applying for, obtaining and maintaining any and all approvals, licenses, registrations or authorizations necessary or desirable to test, market or commercialize the Assets (including any Product). Such cooperation shall include providing such data and information, consulting with Eton and executing and delivering all such further documents and instruments, in each case as requested by Eton regarding the Assets and shall not exceed a total of eighty (80) hours.

6.2.3 Eton shall own, and Andersen hereby assigns to Eton, all right, title and interest in and to all results and other work product resulting from the activities described in this Section 6.2, together with all intellectual property rights therein and thereto.

6.3 Non-Competition. Subject to Section 2.1.1 herein and except as expressly agreed in writing by Eton, Andersen shall not, directly or indirectly, develop, seek to develop, make, have made, market, solicit orders for, offer for sale, sell, import, distribute or otherwise commercialize a Product or exploit the Technology.

7. Indemnification.

7.1 Indemnification of Eton. Subject to the provisions of this Section 7, Andersen shall indemnify, defend and hold harmless Eton, its officers, directors, Affiliates, agents, stockholders and representatives (collectively, the "Eton Indemnitees"), from and against any and all loss, liability, damage and expense (including reasonable attorneys' fees and costs) incurred as a result of any claim, demand, action or proceeding by any Third Party (collectively, "Losses") incurred or suffered by an Eton Indemnitee to the extent arising out of:

7.1.1 any breach of the representations and warranties of Andersen set forth in this Agreement;

7.1.2 any breach of any covenant or agreement of Andersen set forth in this Agreement or in any certificate, instrument, or other document delivered pursuant to this Agreement; and

7.1.3 the ownership, operation or exploitation of the Assets prior to the Effective Date or any liability or obligation whatsoever of Andersen.

7.2 Indemnification of Andersen. Subject to the provisions of this Section 7, Eton shall indemnify and hold harmless Andersen, its officers, directors, agents and representatives (collectively, the "Andersen Indemnitees"), from and against any and all Losses incurred or suffered by a Andersen Indemnitee to the extent arising out of:

7.2.1 any breach of the representations and warranties of Eton set forth in this Agreement;

7.2.2 any breach of any covenant or agreement of Eton set forth in this Agreement or in any certificate, instrument, or other document delivered pursuant to this Agreement;

7.2.3 the ownership, operation or exploitation of the Assets after the Effective Date or the manufacture, use, or sale of any Product solely by Eton, its Licensees or their respective Affiliates or the use of any Product by their customers.

7.3 Procedure. A party seeking indemnification (the "Indemnitee") shall promptly notify the other party (the "Indemnifying Party") in writing of a claim, demand, action or proceeding; provided that an Indemnitee's failure to give such notice or delay in giving such notice shall not affect such Indemnitee's right to indemnification under this Section 7 except to the extent that the Indemnifying Party has been prejudiced by such failure or delay. The Indemnifying Party shall have the right to control the defense of all indemnification claims hereunder. The Indemnitee shall have the right to participate at its own expense in the claim, demand, action or proceeding with counsel of its own choosing. The Indemnifying Party shall consult with the Indemnitee in good faith with respect to all non-privileged aspects of the defense strategy. The Indemnitee shall cooperate with the Indemnifying Party as reasonably requested, at the Indemnitee's sole cost and expense. The Indemnifying Party shall not settle any claim, demand, action or proceeding with respect to which without the Indemnitee's prior written consent, which consent shall not be unreasonably withheld.

8. Confidentiality.

8.1 Confidential Information. Except as otherwise provided in this Section 8, Andersen shall maintain in confidence all data and information comprising the Assets (the "Confidential Information"), and shall not use, disclose or grant the use of the Confidential Information except on a need-to-know basis to those directors, officers, employees and contractors, to the extent such disclosure is reasonably necessary in connection with performing its obligations or exercising its rights under this Agreement. To the extent that disclosure is authorized by this Agreement, prior to disclosure, Andersen shall obtain agreement of any such Person to hold in confidence and not make use of the Confidential Information for any purpose other than those permitted by this Agreement. Andersen shall notify Eton promptly upon discovery of any unauthorized use or disclosure of the Confidential Information.

8.2 Terms of this Agreement. Except as otherwise provided in this Section 8, neither party shall disclose any terms or conditions of this Agreement to any Third Party without the prior consent of the other party. Notwithstanding the foregoing, prior to execution of this Agreement, the parties have agreed upon the substance of information that can be used to describe the terms of this transaction, and each party may disclose such information, as modified by mutual agreement in writing from time to time, without the other party's consent.

8.3 Permitted Disclosures. The confidentiality obligations contained in this Section 8 shall not apply to the extent that (a) a party is required (i) in the reasonable opinion of such party's legal counsel, to disclose information by applicable law, regulation, rule (including rule of a stock exchange or automated quotation system), order of a governmental agency or a court of competent jurisdiction or legal process, including tax authorities, or (ii) to disclose information to any governmental agency for purposes of obtaining approval to test or market a product, provided in either case that, to the extent practicable, such party shall provide written notice thereof to the other party and sufficient opportunity to object to any such disclosure or to request confidential treatment thereof; or (b) a party can demonstrate that (i) the information was or became public knowledge, other than as a result of actions of such party in violation hereof; or (ii) the information was disclosed to the receiving party on an unrestricted basis from a source unrelated to any party to this Agreement and not under a duty of confidentiality to the other party. Notwithstanding anything to the contrary herein, Eton may disclose the terms and conditions of this Agreement to any Person with whom Eton has, or is proposing to enter into, a business relationship, as long as such Person has entered into a confidentiality agreement with Eton.

8.4 Injunctive Relief. Each party acknowledges that it will be impossible to measure in money the damage to the other party if such party fails to comply with the obligations imposed by this Section 8, and that, in the event of any such failure, the other party may not have an adequate remedy at law or in damages. Accordingly, each party agrees that injunctive relief or other equitable remedy, in addition to remedies at law or damages, is an appropriate remedy for any such failure and shall not oppose the granting of such relief on the basis that the disclosing party has an adequate remedy at law. Each party agrees that it shall not seek, and agrees to waive any requirement for, the securing or posting of a bond in connection with the other party seeking or obtaining such equitable relief.

9. Miscellaneous.

9.1 Assignment. Neither party shall assign its rights or obligations under this Agreement without the prior written consent of the other party, which shall not be unreasonably withheld or delayed; provided, however, that a party may, without such consent, assign this Agreement and its rights and obligations hereunder (a) to any Affiliate, or (b) in connection with the transfer or sale of all or substantially all of its business to which this Agreement relates, or in the event of its merger, consolidation, change in control or similar transaction. Any permitted assignee shall assume all obligations of its assignor under this Agreement. Any purported assignment in violation of this Section 9.1 shall be void.

9.2 Severability. Any provision of this Agreement which is illegal, invalid or unenforceable shall be ineffective to the extent of such illegality, invalidity or unenforceability, without affecting in any way the remaining provisions hereof.

9.3 Governing Law; Exclusive Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to the conflicts of law principles thereof. Each of the parties hereto irrevocably consents to the exclusive jurisdiction and venue of any federal court located in the District of Delaware or state court in Delaware having jurisdiction, in connection with any matter based upon or arising out of this Agreement or the matters contemplated herein, agrees that process may be served upon them in any manner authorized by laws of the State of Delaware for such persons and waives and covenants not to assert or plead any objection which they might otherwise have to such jurisdiction, venue and such process.

9.4 Entire Agreement; Amendment. This Agreement, together with the Exhibits hereto, and each additional document, instrument or other agreement to be executed and delivered pursuant hereto constitute all of the agreements of the parties with respect to, and supersede all prior agreements and understandings relating to the subject matter of, this Agreement or the transactions contemplated by this Agreement, except that this Agreement does not supersede the Exclusive Development and Supply Agreement effective as of _____between the parties. This Agreement may not be modified or amended except by a written instrument specifically referring to this Agreement signed by the parties hereto.

9.5 Waiver. No waiver by one party of the other party's obligations, or of any breach or default hereunder by any other party, shall be valid or effective, unless such waiver is set forth in writing and is signed by the party giving such waiver; and no such waiver shall be deemed a waiver of any subsequent breach or default of the same or similar nature or any other breach or default by such other party.

9.6 Notices. Any consent, notice or report required or permitted to be given or made under this Agreement by a party to the other party shall be in writing, delivered by any lawful means to such other party at its address indicated below, or to such other address as the addressee shall have last furnished in writing to the addressor and (except as otherwise provided in this Agreement) shall be effective upon receipt by the addressee.

If to Andersen: Andersen Pharma, LLC
160 Greentree Drive, Suite 101
Dover, Delaware 19904
Attention: Chief Executive Officer

If to Eton: Eton Pharmaceuticals, Inc.
21925 Field Pkwy, Suite 235
Deer Park, Illinois 60010
Attention: Chief Executive Officer

9.7 Counterparts. This Agreement may be executed in separate counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

SIGNATURE PAGE

IN WITNESS WHEREOF, each party has caused a duly authorized representative to execute this Agreement as of the Effective Date.

ANDERSEN

Andersen Pharma, LLC

_____

By: Christian Eidnes
Its: Chief Executive Officer

Date: _____

ETON

Eton Pharmaceuticals, Inc.

_____

By: Sean Brynjelsen
Its: Chief Executive Officer

Date: _____

EXHIBIT A

Contracts

EXHIBIT B

Certain Assets To Be Transferred

Exhibit 10.7

EXCLUSIVE SALES AND MARKETING AGREEMENT

THIS EXCLUSIVE SALES AND MARKETING AGREEMENT (this "Agreement") dated as of August 11, 2017 (the "Effective Date"), is entered into between EYEMAX LLC, a Massachusetts limited liability company ("Eyemax"), with a place of business at 74 Chestnut Street, Weston, Massachusetts 02493, and ETON PHARMACEUTICALS, INC., a Delaware corporation ("Eton"), with a place of business at 21925 Field Pkwy, Suite 235, Deer Park, Illinois 60010. The parties hereby agree as follows:

1. Definitions. For the purposes of this Agreement, the following terms shall have the respective meanings set forth below, and grammatical variations of such terms shall have corresponding meanings:

1.1 "Affiliate" shall mean, with respect to any Person, any other Person which directly or indirectly controls, is controlled by, or is under common control with, such Person. A Person shall be regarded as in control of another Person if it owns, or directly or indirectly controls, more than fifty percent (50%) of the voting stock or other ownership interest of the other Person, or if it directly or indirectly possesses the power to direct or cause the direction of the management and policies of the other Person by any means whatsoever.

1.2 "Eyemax IP Rights" shall mean, collectively, the Eyemax Patent Rights, Eyemax Know-How Rights and Eyemax Registrations.

1.3 "Eyemax Know-How Rights" shall mean all trade secret and other know-how rights in which Eyemax or its Affiliates heretofore or hereafter has an ownership or (sub)licensable interest, in and to the Technology.

1.4 "Eyemax Patent Rights" shall mean (a) all patents and patent applications that claim or cover the Technology in which Eyemax or its Affiliates heretofore or hereafter has an ownership or (sub)licensable interest, (b) all divisions, continuations, continuations-in-part, that claim priority to, or common priority with, the patent applications described in clause (a) above or the patent applications that resulted in the patents described in clause (a) above, and (c) all patents that have issued or in the future issue from any of the foregoing patent applications, including utility models, design patents and certificates of invention, together with any reissues, reexaminations, renewals, extensions or additions thereto.

1.5 "Eyemax Registrations" shall mean all Regulatory Filings and Registrations regarding Product.

1.6 "FDA" shall mean the Food and Drug Administration of the United States or any successor thereto.

1.7 "First Commercial Sale" shall mean, with respect to any Product, the first sale of such Product to a Third Party after Registration of such Product.

1.8 "Minimum Annual Royalty Payment" shall mean, with respect to any calendar year period, royalty payments from Eton to Eyemax of an amount equal to One Hundred Thousand Dollars ($100,000USD).

1.9 "Minimum Royalty Cure Payment" shall mean, with respect to any calendar year period, the positive remainder, if any, of the Minimum Annual Royalty Payment minus the amount of royalties paid by Eton for such calendar year period.

1.10 "Net Sales" shall mean the gross sales price of Products invoiced by Eton or its Affiliates to customers who are not Affiliates (or are Affiliates but are the end users of such Product) less (a) credits, allowances, discounts and rebates to, and chargebacks from the account of, such customers; (b) freight and insurance costs in transporting Products; (c) cash, quantity and trade discounts, rebates and other price reductions for Products; (d) sales, use, value-added and other direct taxes; (e) customs duties, tariffs, surcharges and other governmental charges incurred in exporting or importing Products; (f) the fully-burdened cost of goods sold determined in accordance with generally accepted accounting principles; (g) selling, general and administrative expenses determined in accordance with generally accepted accounting principles, including sales commissions incurred on the sale of such Product; and (h) an allowance for uncollectible or bad debts determined in accordance with generally accepted accounting principles.

1.11 "Net Sublicensing Revenues" shall mean, with respect to a Product, the aggregate cash consideration received by Eton or its Affiliates in consideration for a sublicense under the Eyemax IP Rights by Eton or its Affiliates to a Third Party sublicensee with respect to such Product (including royalties received by Eton or its Affiliates based on sales of such Product by such sublicensee, but excluding amounts received (a) for the sale of such Product by Eton or its Affiliates to such sublicensee, or (b) in consideration for the purchase of any debt or securities of Eton or its Affiliates).

1.12 "Person" shall mean any individual, partnership, firm, corporation, association, trust, unincorporated organization or other entity, as well as any syndicate or group of any of the foregoing.

1.13 "Product" shall mean any product, in any form or formulation, including (without limitation) unit dose vials or multi-dose containers, for ophthalmic administration, containing ***.

***Text has been omitted pursuant to Registrant's confidential treatment request filed with the Securities and Exchange Commission ("Commission") pursuant to Rule 24b-2 under the Securities Exchange Act of 1934. The omitted text has been filed separately with the Commission.

1.14 "Recovery Amount" shall mean all reasonable costs and expenses (including reasonable attorneys' fees and costs) incurred by Eton or its Affiliates in connection with the development, commercialization, obtaining and maintaining regulatory approvals, or other exploitation or use of Product, but excluding any items covered by clauses (f) and (g) of Section 1.10 provided; however, the dollar amount of the Recovery Amount shall not exceed Two Million Dollars ($2,000,000) without the prior written consent of Eyemax.

1.15 "Registration" shall mean any registration, license, permit or governmental approval or clearance from the FDA necessary for the purchase, distribution, promotion, marketing or sale of a product.

1.16 "Regulatory Filing" shall mean any New Drug Application or Abbreviated New Drug Application, or any other application, notification or submission made to or with the FDA for Registration of a product, together with all amendments and supplements to any of the foregoing.

1.17 "Technology" shall mean, collectively, all forms and formulations comprising ***, all methods of manufacture or use thereof, and all data, information, compositions, formulae, procedures, protocols, techniques and results of experimentation and testing and other technology relating to or reasonably necessary or useful to make, use, sell, offer for sale, import, develop, seek regulatory approval, market, commercialize or otherwise exploit the foregoing.

1.18 "Territory" shall mean collectively all the territories and possessions of the United States of America; provided, however, that (a) Eyemax shall first offer to Eton any rights to exploit Product outside of the then-current Territory, and (b) if accepted by Eton, then the parties shall negotiate and enter into a mutually acceptable amendment to this Agreement to add such geographic territory to the Territory.

1.19 "Third Party" shall mean any Person other than Eton, Eyemax or their respective Affiliates.

***Text has been omitted pursuant to Registrant's confidential treatment request filed with the Securities and Exchange Commission ("Commission") pursuant to Rule 406 under the Securities Act of 1933. The omitted text has been filed separately with the Commission.

2. Commercialization.

2.1 Grant of Rights. Subject to the terms and conditions of this Agreement, Eyemax hereby grants to Eton an exclusive right and license (with the right to grant sublicenses to Affiliates, contractors (including manufacturers), consultants and representatives; provided, however, sublicenses to other Third Parties require the prior written consent of Eyemax) under the Eyemax IP Rights (a) to research, develop, make, have made, use, offer for sale, sell, import, or otherwise exploit, commercialize or dispose of Products in the Territory, and (b) to make or have made Products worldwide for use, offering for sale, sale, importation or other exploitation, commercialization or disposition of Products in the Territory. Subject to the satisfaction of Eyemax's obligations hereunder and obtaining applicable Registration(s) for Product, Eton shall use commercially reasonable efforts to commercialize such Product in the Territory.

2.2 Technology Transfer. Eyemax shall provide Eton with a copy of all Technology and Eyemax IP Rights (or copies thereof if applicable) at such time and in such manner as reasonably requested by Eton.

2.3 Product Branding. Eton shall have the exclusive right to determine the names and trademarks, trade names, designs, logos and markings used in connection with the research, development, promotion, marketing and sale of Product in the Territory.

3. Product Development and Registration

3.1 Regulatory Submission

3.1.1 Eyemax shall own any Registrations for Product and hereby grants to Eton exclusive rights under all such Registrations.

3.1.2 Eyemax shall be responsible for submission of all initial Regulatory Filings to obtain Registration for Product at its own expense. For purposes of clarity, the preceding sentence only covers the NDA filing fee only. Subject to the foregoing, Eton shall take all reasonably necessary actions to support and obtain Registration thereafter by performing such development and obtaining such data and information as reasonably necessary therefor at its own expense. Without limiting and subject to the foregoing, Eton shall have the right to prepare, file, prosecute, submit and control all Regulatory Filings for Product. Eyemax shall provide to Eton all reasonable assistance as Eton may request from time to time in connection therewith. Eton shall provide to Eyemax reasonably requested updates as to the Registration and Regulatory Filings as Eyemax may request from time to time.

3.1.3 Eyemax hereby appoints Eton as Eyemax's authorized representative, agent and attorney in fact to pursue and maintain Registration of Product. Eton hereby accepts such appointment. Without limiting the foregoing, Eton shall have the exclusive right, subject to the first sentence of Section 3.1.2, (a) to submit relevant Regulatory Filings; (b) to interact and communicate with the FDA and other regulatory authorities in the Territory regarding Regulatory Filings and Registration of Product; (c) to collect information on the adverse effects of Product and report the same to the FDA; and (d) to coordinate and control any Recall (as defined below) of Product in accordance with this Agreement and applicable laws and regulations and reporting relevant information to the FDA.

3.1.4 Without limiting anything set forth herein, Eyemax shall reasonably assist, execute such certificates and other instruments and otherwise cooperate with Eton in connection with any Regulatory Filings as necessary to permit the promotion, marketing and sale of Product in the Territory and comply with all Registration requirements therein.

3.2 Pharmacovigilance.

3.2.1 Each party shall maintain an effective system for the review, evaluation and reporting of Product complaints and adverse drug experiences, as defined in 21 C.F.R. 314.80(a) and as required under applicable law and in accordance with the Quality Agreement.

3.2.2 Each party shall promptly (but in any event within three (3) business days) advise the other of any safety or toxicity problem of which either party becomes aware regarding the Product. Eyemax shall, within five (5) business days following notification to Eyemax, inform Eton in the event of any FDA or other U.S. regulatory inspection relating to the Product and shall immediately (but in any event within one (1) business day) notify Eton in writing of any adverse event relating to the Product.

3.3 Recall. Each party promptly shall notify the other party if a Product is determined to be the subject of a recall, market withdrawal, or correction (collectively, "Recall"). In the event of a Recall, Eton shall be responsible for coordinating and managing such Recall. Eyemax shall reasonably cooperate with Eton and take all necessary actions that may be necessary for Eton to manage the Recall, including providing Eton with any and all data, information and documents requested by Eton within three (3) days of such request. The parties agree to cooperate in case of a Recall and provide such information as may be necessary to effectuate the Recall and to satisfy any regulatory requests about the Recall.

4. Representations and Warranties.

4.1 Representations and Warranties of Eyemax. Eyemax hereby represents and warrants to Eton as follows:

4.1.1 Eyemax is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Massachusetts.

4.1.2 Eyemax (a) has the requisite power and authority and the legal right to enter into this Agreement and to perform its obligations hereunder, and (b) has taken all necessary action on its part to authorize the execution and delivery of this Agreement and the performance of its obligations hereunder. This Agreement has been duly executed and delivered on behalf of Eyemax, and constitutes a legal, valid, binding obligation, enforceable against Eyemax in accordance with its terms.

4.1.3 All necessary consents, approvals and authorizations of all governmental authorities and other Persons required to be obtained by Eyemax in connection with this Agreement have been obtained.

4.1.4 The execution and delivery of this Agreement and the performance of Eyemax's obligations hereunder (a) do not conflict with or violate any requirement of applicable laws or regulations, and (b) do not conflict with, or constitute a default under, any contractual obligation of it. Neither Eyemax, its (sub)contractors, nor any of its or their officers, directors, employees or consultants, have been debarred by the FDA or other applicable governing health authority (or authorities), under any existing or prior law or regulation.

4.1.5 All material data, information, results of experimentation and testing provided by Eyemax to the FDA or Eton are accurate and complete in all respects.

4.1.6 To the best of Eyemax's knowledge after due inquiry but without performing a freedom of operate, neither Product nor any use thereof infringes, misappropriates or otherwise violates the intellectual property rights of any Third Party.

4.2 Representations and Warranties of Eton. Eton hereby represents and warrants to Eyemax as follows:

4.2.1 Eton is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware.

4.2.2 Eton (a) has the corporate power and authority and the legal right to enter into this Agreement and to perform its obligations hereunder, and (b) has taken all necessary corporate action on its part to authorize the execution and delivery of this Agreement and the performance of its obligations hereunder. This Agreement has been duly executed and delivered on behalf of Eton, and constitutes a legal, valid, binding obligation, enforceable against Eton in accordance with its terms.

4.2.3 All necessary consents, approvals and authorizations of all governmental authorities and other Persons required to be obtained by Eton in connection with this Agreement have been obtained.

4.2.4 The execution and delivery of this Agreement and the performance of Eton's obligations hereunder (a) do not conflict with or violate any requirement of applicable laws or regulations, and (b) do not conflict with, or constitute a default under, any contractual obligation of it. Neither Eton, its (sub)contractors, nor any of its or their officers, directors, employees or consultants, have been debarred by the FDA or other applicable governing health authority (or authorities), under any existing or prior law or regulation.

5. Financial Terms

5.1 Upfront Fee. Within five (5) business days after the Effective Date, Eton shall pay to Eyemax an upfront fee of two hundred fifty thousand dollars ($250,000).

5.2 Milestone Payments. Within thirty (30) days following the first achievement of each of the following milestone events, Eton shall pay to Eyemax the corresponding milestone payment:

Milestone Event	Milestone Payment
Eyemax obtaining Registration for Product	$ 250,000
First Commercial Sale of Product	$ 500,000

5.3 Royalties.

5.3.1 Royalty Rate. During the Term, subject to the terms and conditions of this Agreement, Eton shall pay to Eyemax royalties equal to ten percent (10%) of Net Sales and Net Sublicensing Revenues, in each case in excess of the Recovery Amount.

5.3.2 Combination/Bundled Products. In the event that a Product is sold by Eton or its Affiliates in combination with one or more products which is itself not a Product, then Net Sales shall be calculated by multiplying the sales price of such combination sale by the fraction A/(A+B) where A is the fair market value of the Product(s) and B is the fair market value of the other product(s) in the combination sale, each as reasonably determined by Eton after consultation with Eyemax.

5.3.3 Third Party Royalties. If Eton or its Affiliates is required to pay royalties to any Third Party in order to exercise its rights hereunder to make, have made, use, offer for sale, sell or import any Product, then Eton shall have the right to credit fifty percent (50%) of such Third Party royalty payments against the royalties that would otherwise be owing with respect to sales of such Product prior to giving effect to this Section 5.3.3; provided, however, that Eton shall not reduce the amount of royalties paid to Eyemax by reason of this Section 5.3.3 to less than fifty percent (50%) of the royalties that would otherwise be owing with respect to sales of such Product.

5.4 Royalty Reports and Payments. Within sixty (60) days after the end of each calendar quarter, Eton shall deliver to Eyemax a report showing for such calendar quarter in reasonably specific detail the calculation of the royalties owing to Eyemax. Eton shall remit the total payments due during such calendar quarter at the time such report is made. Payment in whole or in part may be made in advance of such due date. No such reports or payments shall be due for any Product before the First Commercial Sale of such Product.

5.5 Withholding Taxes. Eton shall be entitled to deduct the amount of any withholding taxes, value-added taxes or other taxes, levies or charges with respect to such amounts payable by Eton or its Affiliates, or any taxes required to be withheld by Eton or its Affiliates, to the extent Eton or its Affiliates pay to the appropriate governmental authority on behalf of Eyemax such taxes, levies or charges. Eton shall use reasonable efforts to minimize any such taxes, levies or charges required to be withheld on behalf of Eyemax by Eton or its Affiliates. Eton promptly shall deliver to Eyemax proof of payment of all such taxes, levies and other charges, together with copies of all communications from or with such governmental authority with respect thereto.

5.6 Audits.

5.6.1 Upon the written request of Eyemax and not more than once in each calendar year, Eton shall permit an independent certified public accounting firm of nationally recognized standing selected by Eyemax and reasonably acceptable to Eton, at Eyemax's expense, to have access during normal business hours to such of the financial records of Eton as may be reasonably necessary to verify the accuracy of the reports hereunder for the eight (8) calendar quarters immediately prior to the date of such request (other than records for which Eyemax has already conducted an audit under this Section).

5.6.2 If such accounting firm concludes that additional amounts were owed during the audited period, Eton shall pay such additional amounts within ten (10) days after the date Eyemax delivers to Eton such accounting firm's written report so concluding. The fees charged by such accounting firm shall be paid by Eyemax; provided, however, to the extent the auditor determines an underpayment discrepancy greater than five percent (5%), Eton shall pay the reasonable fees and expenses charged by such accounting firm.

5.6.3 Eyemax shall cause its accounting firm to retain all financial information subject to review under this Section 5.6 in strict confidence; provided, however, that Eton shall have the right to require that such accounting firm, prior to conducting such audit, enter into an appropriate and reasonable non-disclosure agreement with Eton regarding such financial information. The accounting firm shall disclose to Eyemax only whether the reports are correct or not and the amount of any discrepancy. No other information shall be shared. Eyemax shall treat all such financial information as Eton's confidential information, and shall not disclose such financial information to any Third Party or use it for any purpose other than as specified in this Section 5.6.

6. Indemnification and Insurance.

6.1 Indemnification by Eyemax. Eyemax shall indemnify, defend and hold harmless Eton, its Affiliates, and its and their respective officers, directors, shareholders, employees, agents and representatives (collectively "Eton Indemnitees") from any and all losses, liabilities, damages and expenses, including reasonable attorneys' fees and costs (collectively, "Losses") arising from any claim, demand, action or other proceeding by a Third Party, to the extent arising out of or caused by (a) gross negligence or willful misconduct of Eyemax, its agents or Affiliates; (b) any breach of any representation, warranty or covenant of this Agreement by Eyemax; or (c) Eyemax's failure to fully comply with all applicable laws regarding Product, its use, or any part thereof.

6.2 Indemnification by Eton. Eton shall indemnify, defend and hold harmless Eyemax, its Affiliates, and its and their respective officers, directors, shareholders, employees, agents and representatives (collectively "Eyemax Indemnitees") from any and all Losses arising from any claim, demand, action or other proceeding by a Third Party, to the extent arising out of or caused by (a) gross negligence or willful misconduct of Eton, its agents or Affiliates; (b) any breach of any representation, warranty or covenant of this Agreement by Eton; or (c) Eton's failure to fully comply with all applicable laws regarding Product, its use, or any part thereof.

6.3 Procedure. A party seeking indemnification (the "Indemnitee") shall promptly notify the other party (the "Indemnifying Party") in writing of a claim, demand, action or proceeding; provided that an Indemnitee's failure to give such notice or delay in giving such notice shall not affect such Indemnitee's right to indemnification under this Section 6 except to the extent that the Indemnifying Party has been prejudiced by such failure or delay. The Indemnifying Party shall have the right to control the defense of all indemnification claims hereunder. The Indemnitee shall have the right to participate at its own expense in the claim, demand, action or proceeding with counsel of its own choosing. The Indemnifying Party shall consult with the Indemnitee in good faith with respect to all non-privileged aspects of the defense strategy. The Indemnitee shall cooperate with the Indemnifying Party as reasonably requested, at the Indemnitee's sole cost and expense. The Indemnifying Party shall not settle any claim, demand, action or proceeding with respect to which without the Indemnitee's prior written consent, which consent shall not be unreasonably withheld.

6.4 Insurance. Each party shall maintain insurance, including product liability insurance, with respect to its activities under this Agreement regarding Product in such amount as such party customarily maintains with respect to similar activities for its other products, but not less than such amount as is reasonable and customary in the industry. Each party shall maintain such insurance for so long as it continues its activities under this Agreement, and thereafter for so long as such party customarily maintains insurance for itself covering similar activities for its other products.

6.5 LIMITATION OF LIABILITY. NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, EXCEPT FOR THE OBLIGATIONS TO INDEMNIFY, DEFEND AND HOLD HARMLESS PURSUANT TO THIS SECTION 6 OR THE CONFIDENTIALITY OBLIGATIONS PURSUANT TO SECTION 7, NEITHER PARTY SHALL BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, WHETHER FORESEEABLE OR NOT, ARISING OUT OF THIS AGREEMENT OR THE EXERCISE OF ITS RIGHTS HEREUNDER, REGARDLESS OF ANY NOTICE OF SUCH DAMAGES.

7. Confidentiality.

7.1 Confidential Information. During the Term and for a period of five (5) years thereafter, each party shall maintain in confidence all information of the other party that is disclosed by the other party and identified as, or acknowledged to be, confidential at the time of disclosure (the "Confidential Information"), and shall not use, disclose or grant the use of the Confidential Information except on a need-to-know basis to those directors, officers, affiliates, employees, permitted licensees, permitted assignees and agents, consultants, clinical investigators or contractors, to the extent such disclosure is reasonably necessary in connection with performing its obligations or exercising its rights under this Agreement. To the extent that disclosure is authorized by this Agreement, prior to disclosure, each party hereto shall obtain agreement of any such Person to hold in confidence and not make use of the Confidential Information for any purpose other than those permitted by this Agreement. Each party shall notify the other promptly upon discovery of any unauthorized use or disclosure of the other party's Confidential Information.

7.2 Permitted Disclosures. The confidentiality obligations contained in Section 7.1 above shall not apply to the extent that (a) any receiving party (the "Recipient") is required (i) to disclose information by law, regulation or order of a governmental agency or a court of competent jurisdiction, or (ii) to disclose information to any governmental agency for purposes of obtaining approval to test or market a product, provided in either case that the Recipient shall provide written notice thereof to the other party and sufficient opportunity to object to any such disclosure or to request confidential treatment thereof; or (b) the Recipient can demonstrate that (i) the disclosed information was public knowledge at the time of such disclosure to the Recipient, or thereafter became public knowledge, other than as a result of actions of the Recipient in violation hereof; (ii) the disclosed information was rightfully known by the Recipient (as shown by its written records) prior to the date of disclosure to the Recipient by the other party hereunder; (iii) the disclosed information was disclosed to the Recipient on an unrestricted basis from a source unrelated to any party to this Agreement and not under a duty of confidentiality to the other party; or (iv) the disclosed information was independently developed by the Recipient without use of the Confidential Information disclosed by the other party.

7.3 Terms of this Agreement. Except as otherwise provided in Section 7.2 above, neither party shall disclose any terms or conditions of this Agreement to any Third Party without the prior consent of the other party. Notwithstanding the foregoing, prior to execution of this Agreement, the parties have agreed upon the substance of information that can be used to describe the terms of this transaction, and each party may disclose such information, as modified by mutual agreement from time to time, without the other party's consent.

7.4 Injunctive Relief. Each party acknowledges that it will be impossible to measure in money the damage to the other party if such party fails to comply with the obligations imposed by this Section 7, and that, in the event of any such failure, the other party may not have an adequate remedy at law or in damages. Accordingly, each party agrees that injunctive relief or other equitable remedy, in addition to remedies at law or damages, is an appropriate remedy for any such failure and shall not oppose the granting of such relief on the basis that the disclosing party has an adequate remedy at law. Each party agrees that it shall not seek, and agrees to waive any requirement for, the securing or posting of a bond in connection with the other party seeking or obtaining such equitable relief.

8. Term and Termination.

8.1 Term. The Agreement shall commence on the Effective Date and shall continue for a period of ten (10) years thereafter unless (a) renewed under Section 8.2 or (b) earlier terminated under Section 8.3 (the "Term").

8.2 Renewal Term. This Agreement shall automatically renew for successive two (2) year terms unless Eton provides to Eyemax written notice of non-renewal at least ninety (90) days prior to the end of the then-current term.

8.3 Termination.

8.3.1 In the event of a material breach of this Agreement by either party, the non-breaching party may provide written notice of such breach to the breaching party, including a description of the breach, and indicating the non-breaching party's intent to terminate this Agreement. The breaching party will have sixty (60) days from its receipt of such notice to cure the breach, provided the breach is capable of being cured within the sixty (60) day period. If the breaching party fails to cure the breach within such period, then unless otherwise agreed by the non-breaching party, this Agreement shall terminate on the date that is sixty (60) days following the breaching party's receipt of the notice of breach from the non-breaching party. If the breach is not capable of being remedied within sixty (60) days, the Agreement terminates upon the written notice.

8.3.2 Eton shall have the right to terminate this Agreement in its sole discretion at any time upon ninety (90) days prior written notice to Eyemax.

8.3.3 If (a) Eton fails to meet the Minimum Annual Royalty Payment for any full calendar year following the First Commercial Sale of the Product and (b) Eton has not provided the Minimum Royalty Cure Payment within sixty (60) days after the end of such calendar year, then Eyemax may elect (at its sole and absolute discretion) to: (1) terminate this Agreement by providing sixty (60) days written notice, (2) not terminate this Agreement but convert the exclusivity provisions of this Agreement to non-exclusive, or (3) provide a waiver without effecting its rights to future violations.

8.3.4 If Eton fails to file an initial Regulatory Filing for Product pursuant to Section 3.1.2 by August 15, 2019, Eyemax has the right to terminate this Agreement by providing thirty (30) days' prior written notice and providing Eton with a thirty (30) day cure period.

8.3.5 If Eton determines that the Recovery Amount is reasonably likely to exceed two million dollars ($2,000,000), then Eton shall have the right to terminate this Agreement upon thirty (30) days' prior written notice to Eyemax.

8.4 Effect of Termination or Expiration. Termination or expiration of this Agreement shall be without prejudice to any rights which shall have accrued to the benefit of any party prior to such termination or expiration. Without limiting the foregoing, Sections 3.2, 3.3, 4, 6, 7, 8.4 and 9 shall survive any termination or expiration of this Agreement.

9. Miscellaneous.

9.1 Relationship of Parties. The relationship between Eyemax and Eton, with respect to this Agreement, is only that of independent contractors notwithstanding any activities set forth in this Agreement. Neither party is the agent or legal representative of the other party, and neither party has the right or authority to bind the other party in any way. This Agreement creates no relationship as partners or a joint venture, and creates no pooling arrangement.

9.2 Governing Law and Resolution of Disputes.

9.2.1 This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware without reference to its conflict of laws principles.

9.2.2 Any and all disputes or claims arising from or out of this Agreement shall be litigated exclusively before a court of the State of Delaware or, if subject matter jurisdiction exists, the United States District Court for the District of Delaware. Each party hereto hereby irrevocably and unconditionally consents to the exclusive personal jurisdiction and service of, and venue of, any such court, and further irrevocably and unconditionally waives and agrees not to plead or claim that any action, lawsuit or proceeding brought in any such court has been brought in an inconvenient forum. Any judgment issued by such a court may be enforced in any court having jurisdiction.

9.3 Assignment. Neither party shall assign its rights or obligations under this Agreement without the prior written consent of the other party, which shall not be unreasonably withheld or delayed; provided, however, that a party may, without such consent, assign this Agreement and its rights and obligations hereunder (a) to any Affiliate, or (b) in connection with the transfer or sale of all or substantially all of its business to which this Agreement relates, or in the event of its merger, consolidation, change in control or similar transaction. Any permitted assignee shall assume all obligations of its assignor under this Agreement. Any purported assignment in violation of this Section 9.3 shall be void.

9.4 Counterparts. This Agreement may be executed in several counterparts that together shall be originals and constitute one and the same instrument.

9.5 Waiver. The failure of any party to enforce any of its rights hereunder or at law shall not be deemed a waiver of any of its rights or remedies against another party, unless such waiver is in writing and signed by the party to be charged. No such waiver shall be deemed a waiver of any subsequent breach or default of the same or similar nature or any other breach or default by such other party. All rights and remedies conferred herein shall be cumulative and in addition to all of the rights and remedies available to each party at law, equity or otherwise.

9.6 Severability. If any provision of this Agreement, or part thereof, is declared by a court of competent jurisdiction to be invalid, void or unenforceable, each and every other provision, or part thereof, shall nevertheless continue in full force and effect.

9.7 Notices. Any consent, notice or report required or permitted to be given or made under this Agreement by a party to the other party shall be in writing, delivered by any lawful means to such other party at its address indicated below, or to such other address as the addressee shall have last furnished in writing to the addressor and (except as otherwise provided in this Agreement) shall be effective upon receipt by the addressee.

If to Eyemax: Eyemax LLC
74 Chestnut Street
Weston, Massachusetts 02493
Attention: Dr. Elias Reichel

If to Eton: Eton Pharmaceuticals, Inc.
21925 Field Pkwy, Suite 235
Deer Park, Illinois 60010
Attention: Chief Executive Officer

9.8 Further Assurances. The parties agree to execute such additional documents and perform such acts as are reasonably necessary to effectuate the intent of this Agreement.

9.9 Entire Agreement. This Agreement constitutes the entire agreement between the parties regarding the subject matter hereof, and supersedes all prior or contemporaneous understandings or agreements regarding the subject matter hereof, whether oral or written. This Agreement shall be modified or amended only by a writing specifically referring to this Agreement signed by both Eton and Eyemax.

9.10 Force Majeure. Neither Party shall be liable for delays in its performance caused by events beyond its control, such as fires, floods, labor shortages, strikes, epidemics, computer virus, earthquakes, riots, acts of terror, acts of God, storms, acts of civil or military authority or similar occurrences, provided the affected party gives the other party written notice of such event within three (3) business days of its occurrence. Such notice shall state the estimated duration of such event and the cause thereof and the affected party shall use commercially reasonable efforts to work around such event beyond its control.

9.11 Headings and Construction. No rule of construction shall be applied to the disadvantage of a party because that party was responsible for the preparation of this Agreement or any part of this Agreement. The Article and Section headings in this Agreement are for convenient reference only and shall be given no substantive or interpretive effect. With respect to all terms used in this Agreement, words used in the singular include the plural and words used in the plural include the singular. The word ‘including’ means including without limitation, and the words ‘herein’, ‘hereby’, ‘hereto’ and ‘hereunder’ refer to this Agreement as a whole. Unless the context otherwise requires, references found in this Agreement: (i) to Articles and Sections mean the Articles and Sections of this Agreement, as amended, supplemented and modified from time to time; (ii) to an agreement, instrument or other document means such agreement; (iii) to an agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time, to the extent provided by the provisions thereof and by this Agreement; and (iv) to a statute or a regulation mean such statute or regulation as amended from time to time.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, each party has caused a duly authorized representative to execute this Agreement as of the Effective Date.

EYEMAX LLC

By: */s/ Elias Reichel*
Name: Elias Reichel
Title: President

ETON PHARMACEUTICALS, INC.

By: */s/ Sean Brynjelsen*
Name: Sean Brynjelsen
Title: CEO

Exhibit 10.8

DEVELOPMENT, SUPPLY AND COMMERCIALIZATION AGREEMENT

THIS DEVELOPMENT, SUPPLY AND COMMERCIALIZATION AGREEMENT (this "Agreement") dated as of November 7, 2017 (the "Effective Date"), is entered into between ***, with a place of business at ***, and ETON PHARMACEUTICALS, INC., a Delaware corporation ("Eton"), with a place of business at 21925 Field Pkwy, Suite 235, Deer Park, Illinois 60010. The parties hereby agree as follows:

1. Definitions. For the purposes of this Agreement, the following terms shall have the respective meanings set forth below, and grammatical variations of such terms shall have corresponding meanings:

1.1 "Affiliate" shall mean, with respect to any Person, any other Person which directly or indirectly controls, is controlled by, or is under common control with, such Person. A Person shall be regarded as in control of another Person if it owns, or directly or indirectly controls, more than fifty percent (50%) of the voting stock or other ownership interest of the other Person, or if it directly or indirectly possesses the power to direct or cause the direction of the management and policies of the other Person by any means whatsoever.

1.2 "*** Development Activities" shall mean all activities reasonably necessary to generate all data and information reasonably required for the chemistry, manufacturing, and controls (CMC) portion(s) of Regulatory Filings for Product in the Territory (as set forth in 21 C.F.R. § 314.50(d)(1)), including the drug product (as detailed in 21 C.F.R. § 314.50(d)(1)(ii), including the drug formulation, drug batch manufacturing, a list of all components used in the manufacture of the drug product and a statement of the composition of the drug product, the specifications for each component, and the proposed or actual master product record); (c) the environmental impact (as detailed in 21 C.F.R. § 314.50(d)(1)(iii)); and (d) developing and validating (i) the final and scaled-up manufacturing process, (ii) all appropriate analytical methods related to Product, and (iii) the finished dosage formulation for Product.

1.3 "*** Development Costs" shall mean the lesser of (a) all of *** out of pocket costs directly incurred (and actually paid to Third Parties) for the *** Development Activities and (b) one million dollars ($1,000,000).

***Text has been omitted pursuant to Registrant's confidential treatment request filed with the Securities and Exchange Commission ("Commission") pursuant to Rule 406 under the Securities Act of 1933. The omitted text has been filed separately with the Commission.

1.4 "*** Technology" shall mean all technology and intellectual property rights that were conceived, created, generated, made, derived, developed or reduced to practice by or on behalf of*** (solely or jointly) either unrelated to *** performance of the *** Development Activities or prior to the Effective Date to the extent (a) incorporated into the Work Product or (b) the use or exploitation of which is reasonably necessary for the use or exploitation of the Work Product or the research, development, commercialization or other exploitation of Product.

1.5 "API" shall mean the active pharmaceutical ingredient ***.

1.6 "Certificate of Analysis" shall mean the certificate to be issued by *** for each batch or lot of Product stating the Specifications, the testing results, and the analytical methods used.

1.7 "Certificate of Compliance" shall mean the certificate to be issued by *** stating that the Product was manufactured and tested in compliance with the terms and conditions of this Agreement, cGMP, all applicable laws and regulations and the Quality Agreement.

1.8 "cGMP" shall mean the principles detailed in the United States Current Good Manufacturing Practices (21 C.F.R. §§ 200, 211 and 600).

1.9 "Clinical Costs" shall mean all costs and expenses incurred by Eton or its Affiliates in connection with any preclinical, clinical or bioequivalence studies for Product less the *** Development Costs.

1.10 "FDA" shall mean the Food and Drug Administration of the United States or any successor thereto.

1.11 "First Commercial Sale" shall mean, with respect to any Product, the first sale of such Product to a Third Party after Registration of such Product.

1.12 "Eton Development Activities" shall mean all activities reasonably necessary to generate all data and information reasonably required for Regulatory Filings for Product in the Territory, including all preclinical, clinical, and bioequivalence studies, but excluding the *** Development Activities.

***Text has been omitted pursuant to Registrant's confidential treatment request filed with the Securities and Exchange Commission ("Commission") pursuant to Rule 406 under the Securities Act of 1933. The omitted text has been filed separately with the Commission.

1.13 "Gross Profits" shall mean, with respect to a Product, Net Sales of such Product less the fully-burdened cost of goods sold determined in accordance with generally accepted accounting principles, including any applicable Third Party royalty payments or similar payments and the applicable Transfer Price.

1.14 "Litigation Expenses" shall mean all costs and expenses (including attorneys' fees and costs), but excluding any royalty payments or similar payments covered by Section 1.13, incurred by Eton or its Affiliates in connection with any claim, demand, action or proceeding regarding Product, not to exceed two million dollars ($2,000,000) in the aggregate except upon mutual written agreement.

1.15 "Net Sales" shall mean the gross sales price of Product invoiced by Eton or its Affiliates to customers who are not Affiliates (or are Affiliates but are the end users of such Product), less (a) credits, allowances, discounts and rebates to, and chargebacks from the account of, such customers; (b) freight and insurance costs in transporting Products; (c) cash, quantity and trade discounts, rebates and other price reductions for Product; (d) sales, use, value-added and other direct taxes; (e) customs duties, tariffs, surcharges and other governmental charges incurred in exporting or importing Product; and (f) an allowance for uncollectible or bad debts determined in accordance with generally accepted accounting principles, which shall not exceed one percent (1%) of Net Sales of the Product, and will be updated annually based on actual losses.

1.16 "Person" shall mean any individual, partnership, firm, corporation, association, trust, unincorporated organization or other entity, as well as any syndicate or group of any of the foregoing.

1.17 "Product" shall mean the product, in such form and formulation for injectable administration, containing *** as an active pharmaceutical ingredient with a concentration of 80 USP units/mL, USP, to be developed by *** for the benefit of Eton in accordance with this Agreement.

1.18 "Product Profits" shall mean, with respect to a Product and will be calculated every calendar quarter, Gross Profits of such Product, less (a) the Recovery Amount not previously deducted; (b) the Clinical Costs not previously deducted up to twenty-five percent (25%) of Gross Profits for such calendar quarter; and (c) selling, general and administrative expenses related to the Product, which shall not exceed twenty percent (20%) of Net Sales in any calendar quarter as determined in accordance with generally accepted accounting principles, including sales commissions incurred on the sale of such Product.

***Text has been omitted pursuant to Registrant's confidential treatment request filed with the Securities and Exchange Commission ("Commission") pursuant to Rule 406 under the Securities Act of 1933. The omitted text has been filed separately with the Commission.

1.19 "Purchase Order" shall mean a written purchase order provided by Eton or its Affiliate to *** for the supply and purchase of Product under this Agreement.

1.20 "Recovery Amount" shall mean all Litigation Expenses and all costs and expenses incurred by Eton or its Affiliates in connection with the development, commercialization, obtaining and maintaining Registrations and other exploitation or use of Product (including any costs or expenses related to safety monitoring or recall of Product), but excluding Clinical Costs.

1.21 "Registration" shall mean any registration, license, permit or governmental approval or clearance from the FDA or other regulatory authority necessary for the purchase, distribution, promotion, marketing or sale of a human pharmaceutical product.

1.22 "Regulatory Filing" shall mean any New Drug Application or Abbreviated New Drug Application, or any other application, notification or submission made to or with the FDA or other regulatory authority for Registration of a human pharmaceutical product, together with all amendments and supplements to any of the foregoing.

1.23 "Specifications" shall mean the specifications for Product provided by Eton to *** hereunder, as modified from time to time by mutual written agreement between the parties.

1.24 "Territory" shall mean collectively all the territories and possessions of the United States of America and worldwide as mutually agreed by both Parties.

1.25 "Third Party" shall mean any Person other than Eton, *** or their respective Affiliates.

1.26 "Transfer Price" shall mean, with respect to a Product purchased by Eton or its Affiliates from *** hereunder, one hundred twenty percent (120%) of *** demonstrated costs to manufacture such Product but excluding any costs to procure API.

1.27 "Work Product" shall mean all methods of manufacture or use of Product and all discoveries, inventions (whether or not protectable under patent laws), designs, developments, works of authorship, data, information, compositions, formulae, procedures, protocols, techniques, results of experimentation and testing and other technology and all intellectual property rights therein and thereto conceived, created, generated, made, derived, developed, reduced to practice, or otherwise resulting from performance of the *** Development Activities, whether directly or indirectly or solely or jointly with others.

***Text has been omitted pursuant to Registrant's confidential treatment request filed with the Securities and Exchange Commission ("Commission") pursuant to Rule 406 under the Securities Act of 1933. The omitted text has been filed separately with the Commission.

2. Representations and Warranties.

2.1 By Each Party. Each party represents and warrants to the other party as follows:

2.1.1 Such party is duly organized, validly existing and in good standing under the laws of the jurisdiction in which it is organized.

2.1.2 Such party (a) has the requisite power and authority and the legal right to enter into this Agreement and to perform its obligations hereunder, and (b) has taken all necessary action on its part to authorize the execution and delivery of this Agreement and the performance of its obligations hereunder. This Agreement has been duly executed and delivered on behalf of such party and constitutes a legal, valid, binding obligation, enforceable against such party in accordance with its terms.

2.1.3 All necessary consents, approvals and authorizations of all governmental authorities and other Persons required to be obtained by such party in connection with this Agreement have been obtained.

2.1.4 The execution and delivery of this Agreement and the performance of such party's obligations hereunder (a) do not conflict with or violate any requirement of applicable laws or regulations, and (b) do not conflict with, or constitute a default under, any contractual obligation of it. Neither party, its Affiliates, its (sub)contractors, nor any of its or their officers, directors, employees or consultants, have been debarred by the FDA or other applicable governing health authority (or authorities), under any existing or prior law or regulation.

2.2 By ***. *** represents and warrants to Eton as follows:

2.2.1 All data, information, results of experimentation and testing provided by *** to Eton regarding Product shall be accurate and complete in all respects.

***Text has been omitted pursuant to Registrant's confidential treatment request filed with the Securities and Exchange Commission ("Commission") pursuant to Rule 406 under the Securities Act of 1933. The omitted text has been filed separately with the Commission.

2.2.2 The *** Development Activities shall be performed in a professional and workmanlike manner in accordance with the highest applicable industry standards.

2.2.3 All Product supplied by *** shall be manufactured, stored and supplied in accordance with, and otherwise perform its obligations hereunder in accordance with, all applicable laws (including cGMP and all applicable FDA or other regulatory authority requirements), the Quality Agreement, this Agreement and generally accepted professional standards.

2.2.4 All Product supplied by *** shall be free from defect in workmanship and material and shall meet all Specifications. Upon delivery of a Product, the Product shall be in conformity with applicable law and the Quality Agreement, and shall not be adulterated, misbranded, misused, contaminated, tampered with or otherwise altered, mishandled, or subjected to negligence. Title to all Products delivered hereunder shall pass to Eton concurrently with risk of loss, free and clear of all liens, encumbrances and other adverse claims.

2.3 DISCLAIMER OF WARRANTIES. EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN SECTION 2, NEITHER PARTY MAKES ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, REGARDING THE TECHNOLOGY, THE PRODUCT OR ANY OTHER MATTER, INCLUDING ANY REPRESENTATION OR WARRANTY REGARDING MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT.

3. Development and Registration.

3.1 Initial Technology Transfer. As soon as reasonably practical following the Effective Date, Eton shall provide *** with a copy of the Specifications, the anticipated formulation for Product, and the initial manufacturing process for Product.

***Text has been omitted pursuant to Registrant's confidential treatment request filed with the Securities and Exchange Commission ("Commission") pursuant to Rule 406 under the Securities Act of 1933. The omitted text has been filed separately with the Commission.

3.2 *** Development.

3.2.1 *** shall be responsible for and shall perform the *** Development Activities in accordance with this Agreement, cGMP and all applicable laws and regulations. Eton, at its sole expense, shall supply *** with such quantities of API, at such times as reasonably requested by *** as necessary for use in the *** Development Activities.

3.2.2 *** shall perform the *** Development Activities at its sole expense, provided, however, that *** out of pocket costs directly incurred (and actually paid to Third Parties) for the *** Development Activities in excess of one million dollars ($1,000,000) shall be shared by the parties as follows: seventy percent (70%) by Eton and thirty percent (30%) by ***.

3.2.3 *** shall keep Eton reasonably informed of its progress in performing the *** Development Activities. Without limiting the generality of the foregoing, following the end of each calendar quarter, *** shall prepare and provide Eton with (a) an invoice for reimbursement of Eton's share of any Third Party expenses set forth in Section 3.2.2 and (b) a reasonably detailed written report describing in detail (i) its progress in performing the *** Development Activities sufficient to enable Eton to understand and monitor *** diligence and the results thereof, through such date of such report, and (ii) the calculation of Eton's share, if any, of the Third Party expenses set forth in Section 3.2.2. Eton shall remit payment for Eton's share, if any, of the Third Party expenses set forth in Section 3.2.2 as properly set forth in such invoice and report within forty-five (45) days after receiving such invoice and report.

3.3 Eton Development. Eton shall be responsible for and shall perform, at its sole expense, all Eton Development Activities in accordance with this Agreement, cGMP and all applicable laws and regulations. ***, at its sole expense, shall supply Eton with such quantities of Product, at such times as reasonably requested by Eton, for use in connection with the Eton Development Activities.

***Text has been omitted pursuant to Registrant's confidential treatment request filed with the Securities and Exchange Commission ("Commission") pursuant to Rule 406 under the Securities Act of 1933. The omitted text has been filed separately with the Commission.

3.4 Work Product.

3.4.1 *** promptly shall disclose all Work Product to Eton and provide copies thereof in a form reasonably requested by Eton. Eton shall own all Work Product, and *** hereby assigns to Eton all right, title and interest therein and thereto. Notwithstanding anything to the contrary herein, all Work Product shall be Confidential Information of Eton.

3.4.2 If *** incorporates or permits to be incorporated any *** Technology into the Work Product, or the use or exploitation of any *** Technology is reasonably necessary for the use or exploitation of the Work Product or the research, development, commercialization or other exploitation of Product, then *** hereby grants to Eton and its Affiliates a non-exclusive, royalty-free, irrevocable, worldwide, fully paid-up license (with the right to grant sublicenses through multiple tiers) to use, practice and exploit such *** Technology for such purpose.

3.4.3 *** shall perform, during and after the Term, all acts that Eton deems necessary or desirable to permit and assist Eton in obtaining, perfecting and enforcing the full benefits, rights and title in the Work Product. If Eton is unable for any reason to secure *** signature to any document required to file, prosecute, register or memorialize the assignment of any rights under any Work Product, *** hereby irrevocably designates and appoints Eton as *** agent and attorney-in-fact to act for and on *** behalf and instead of *** to take all lawfully permitted acts to further the filing, prosecution, registration, memorialization of assignment, issuance and enforcement of rights under such Work Product, all with the same legal force and effect as if executed by ***. The foregoing is deemed a power coupled with an interest and is irrevocable.

3.5 Registration.

3.5.1 Eton shall own any and all Regulatory Filings and Registrations for Product.

***Text has been omitted pursuant to Registrant's confidential treatment request filed with the Securities and Exchange Commission ("Commission") pursuant to Rule 406 under the Securities Act of 1933. The omitted text has been filed separately with the Commission.

3.5.2 Eton shall have the exclusive right (a) to prepare, file, prosecute, submit and control all Regulatory Filings for Product; (b) to interact and communicate with the FDA and other regulatory authorities regarding Regulatory Filings and Registration of Product; (c) to collect information on the adverse effects of Product and report the same to the FDA and other regulatory authorities; and (d) to coordinate and control any Recall (as defined below) of Product in accordance with this Agreement and applicable laws and regulations and reporting relevant information to the FDA and other regulatory authorities.

3.5.3 Eton shall pay filing fees associated with Regulatory Filings, but all filing fee expenses can be recouped through product sales as a Recovery Amount.

3.5.4 *** shall reasonably assist, execute such certificates and other instruments and documents, perform all such other acts as may be necessary or appropriate and otherwise cooperate with and provide reasonable assistance to Eton as Eton may request from time to time regarding any Regulatory Filings or amendments to Registrations for Product, including qualifying a Third Party second source of Product in accordance with this Agreement and all applicable laws and regulations.

3.5.5 *** shall be responsible for obtaining, at its own expense, all permissions, licenses and approvals necessary to perform its obligations under this Agreement.

4. Manufacture and Supply.

4.1 Supply to Eton.

4.1.1 Subject to the terms and conditions of this Agreement, *** shall manufacture and supply Product exclusively to Eton and Eton's Affiliates during the Term.

4.1.2 During the Term and for a period of two (2) years thereafter, *** shall not (a) market, solicit orders for, offer for sale, sell, import, distribute, commercialize or otherwise provide Product to any other party; (b) directly or indirectly engage in or assist any Third Party in the research, development, obtaining Registration, manufacture, offering for sale, sale, distribution, commercialization or other provision or disposition of any product that comprises or contains ***; or (c) enter into any agreement to do any of the foregoing.

***Text has been omitted pursuant to Registrant's confidential treatment request filed with the Securities and Exchange Commission ("Commission") pursuant to Rule 406 under the Securities Act of 1933. The omitted text has been filed separately with the Commission.

4.1.3 Eton shall have the right (a) to engage a Third Party second source for Product and to purchase such amounts of Product from such second source supplier as reasonably necessary to qualify and maintain such second source supplier for commercial production of Product in accordance with prudent industry practices, and (b) to procure Product if, at any time, *** is unable to demonstrate to Eton's satisfaction that it will be able to timely supply Eton's requirements for Product hereunder or upon *** prior written consent to Eton.

4.2 Forecasts.

4.2.1 Not less than ninety (90) days prior to the anticipated First Commercial Sale of Product and before the first (1st) business day of each month thereafter, Eton shall provide *** with a written rolling twelve (12) month forecast of its good faith estimated requirements for Product under this Section 4 ("Forecast"). The first six (6) months of each Forecast shall be binding (the "Firm Order Period") and simultaneously with submission of the Forecast, Eton shall submit Purchase Order(s) for the Product to be delivered during the Firm Order Period. The remaining Forecast quantities estimated shall be non-binding and for planning purposes only.

4.2.2 *** shall supply the quantity of Product ordered by Eton under this Section 4 in any calendar month up to one hundred twenty percent (120%) of the quantity forecasted for such calendar month in the most recent Forecast. If Eton's Purchase Orders in any calendar month exceed one hundred twenty percent (120%) of the quantity forecasted in the most recent Forecast, then *** shall use good faith efforts to supply such excess.

4.3 Purchase Orders.

4.3.1 Eton or its Affiliate shall submit a Purchase Order to *** for each order of Product under this Agreement. Each Purchase Order shall (a) indicate the quantity of Product required and the delivery date and (b) be submitted at least ninety (90) days prior to the required delivery date. If no delivery date is specified in the Purchase Order, the Product shall be delivered hereunder ninety (90) days after the Purchase Order date.

4.3.2 *** shall accept all Purchase Orders that comply with the terms of this Agreement in writing to Eton. Any Purchase Order that is not rejected by *** in writing within three (3) business days after its receipt due to non-compliance with the terms of this Agreement shall be deemed accepted by ***.

***Text has been omitted pursuant to Registrant's confidential treatment request filed with the Securities and Exchange Commission ("Commission") pursuant to Rule 406 under the Securities Act of 1933. The omitted text has been filed separately with the Commission.

4.3.3 Unless otherwise agreed to by the parties, the minimum shelf life of Product provided to Eton by *** shall not be less than seventy-five percent (75%) of the approved shelf life after receipt of Product by Eton.

4.4 Transfer of API.

4.4.1 Except as set forth herein, Eton shall provide *** with quantities of API necessary to fulfill orders for Product and otherwise fulfill its obligations hereunder at no cost to ***. Title and risk of loss shall transfer to *** upon delivery. *** shall handle, store and use all such API in accordance with industry standards and all applicable laws and regulations to maintain such API at all times for its intended purpose. *** shall use the API to fulfill its obligations hereunder and shall not use the API for any other purpose.

4.4.2 If, due to *** negligence, recklessness, willful misconduct or breach of this Agreement, API delivered under Section 4.4.1 is wasted, spoiled or otherwise rendered unfit for its intended use (including by reason of Product rejection in accordance with Section 4.10), then (a) *** shall notify Eton in writing of the amount of wasted, spoiled or otherwise unfit API, (b) Eton shall use commercially reasonable efforts to procure replacement API for ***, and (c) *** shall pay Eton an amount equal to Eton's fully-burdened costs to procure and supply such replacement API. Eton shall invoice *** for the replacement API, and *** shall pay all such invoiced amounts within forty-five (45) days after receipt of such invoice.

4.5 Quality Agreement. Within ninety (90) days after the Effective Date or such other date as the parties mutually agree, the parties shall enter into a quality agreement (the "Quality Agreement") regarding the manufacture and supply of Product by *** to Eton hereunder. The Quality Agreement shall contain provisions consistent with the provisions of this Agreement and such other provisions as customary in the industry or otherwise required for compliance with cGMP and all other applicable FDA or other regulatory authority requirements.

***Text has been omitted pursuant to Registrant's confidential treatment request filed with the Securities and Exchange Commission ("Commission") pursuant to Rule 406 under the Securities Act of 1933. The omitted text has been filed separately with the Commission.

4.6 Quality Control.

4.6.1 *** (a) shall manufacture all Product in accordance with the Specifications, the terms and conditions of this Agreement, cGMP, the Quality Agreement and all applicable laws and regulations; and (b) shall cause all Product to be free from adulteration or defects.

4.6.2 In accordance with the Quality Agreement, *** shall test and release, or cause to be tested and released by Third Party testing facilities specified in the Quality Agreement and audited by ***, Product manufactured and supplied hereunder.

4.6.3 For each shipment of Product to Eton hereunder, *** shall provide a Certificate of Analysis and a Certificate of Compliance along with the shipment.

4.6.4 *** shall prepare methods and all necessary documentation to enable testing of Product by Eton or its designee and shall deliver such methods and necessary documentation to Eton before the first shipment of Product hereunder.

4.6.5 *** shall properly store and retain appropriate samples (identified by batch number) of Product that it supplies to Eton in conditions and for times consistent with all Specifications (which shall not be less than (a) five (5) years from the date of manufacture, or (b) one (1) year following the retest date, whichever is longer) and to permit appropriate or required internal or external regulatory checks and references (collectively, the "Retention Samples"). *** shall provide Eton with access to and portions of the Retention Samples for testing and other purposes upon request.

4.6.6 *** shall maintain all records relating to the manufacture, stability and quality control of all Product and all records reasonably necessary to support and verify *** compliance with this Agreement and the Quality Agreement. *** shall maintain all such records for a period of not less than five (5) years from the manufacturing date of Product to which such records pertain, or such longer period as may be required by any applicable law.

***Text has been omitted pursuant to Registrant's confidential treatment request filed with the Securities and Exchange Commission ("Commission") pursuant to Rule 406 under the Securities Act of 1933. The omitted text has been filed separately with the Commission.

4.7 Trademarks.

4.7.1 Eton shall have the right to determine the names and trademarks, trade names, designs, logos and markings ("Trademarks") used in connection with the promotion, marketing and sale of Product and shall own all such Trademarks. *** shall label and package all Products hereunder in accordance with the respective labeling approved by Eton and in accordance with applicable laws.

4.7.2 Subject to the terms and conditions of this Agreement, Eton grants to *** a non-exclusive, non-transferable, revocable and terminable license to affix Eton's Trademarks to Products and Product packaging as contemplated herein.

4.7.3 Except as set forth herein, *** shall not (a) use any of Eton's Trademarks, or any mark or name confusingly similar thereto, as part of a corporate or business name or in any other manner, or (b) register any Trademark (including any company name) which is identical to or confusingly similar to or incorporates any Trademark which Eton or any of its Affiliates owns or claims to own. Any goodwill associated with Eton's Trademarks affixed, applied or used in connection with the Product shall accrue to Eton's sole benefit. Eton shall have the right, at reasonable times, to conduct such inspections as reasonably necessary or appropriate to police and monitor the use of the Trademarks hereunder.

4.7.4 Only the limited license and rights to Eton's Trademarks expressly granted in this Section 4.7 shall be of legal force and effect. No rights or licenses are granted under any intellectual property rights of Eton's except as expressly provided herein, whether by implication, estoppel or otherwise.

4.8 Packing and Shipping. All amounts of Product ordered by Eton shall be packed for shipment and storage in full accordance with applicable law, the Specifications, Eton's instructions and in full compliance with the Quality Agreement. Delivery shall be Ex Works (Incoterms 2010) *** U.S. warehousing facility. Upon learning of any potential delivery delays, *** shall notify Eton as to the cause of such delays and the actions taken by *** to resolve such delays. If *** fails to make deliveries at the specified time and such failure is not caused by Eton, *** shall, at no additional cost to Eton, employ accelerated measures such as material expediting fees, premium transportation costs, or labor overtime required to meet the specified delivery schedule or minimize the lateness of deliveries.

***Text has been omitted pursuant to Registrant's confidential treatment request filed with the Securities and Exchange Commission ("Commission") pursuant to Rule 406 under the Securities Act of 1933. The omitted text has been filed separately with the Commission.

4.9 Transfer Price. Subject to the terms and conditions of this Agreement, for any Product purchased from *** hereunder, Eton shall pay to *** the applicable Transfer Price. *** shall invoice Eton for the applicable Transfer Price for Product purchased hereunder after delivery of such Product. Payment shall be due within forty-five (45) days after receipt of such invoice.

4.10 Acceptance. If a shipment of Product or any portion thereof is not in conformance with the Specifications, then Eton shall have the right to reject such shipment, or the portion thereof that fails to so conform. Eton shall give written notice to *** of its rejection hereunder, within forty-five (45) days after Eton's receipt of such shipment, specifying the grounds for such rejection. *** shall replace such rejected Product within ninety (90) days after receipt of notice of rejection thereof.

4.11 Pharmacovigilance.

4.11.1 Each party shall maintain an effective system for the review, evaluation and reporting of Product complaints and adverse drug experiences, as defined in 21 C.F.R. § 314.80(a) and as required under applicable law and in accordance with the Quality Agreement.

4.11.2 Each party shall promptly (but in any event within three (3) business days) advise the other of any safety or toxicity problem of which either party becomes aware regarding the Product. *** shall, within five (5) business days following notification to ***, inform Eton in the event of any FDA or other regulatory inspection relating to the Product and shall immediately (but in any event within one (1) business day) notify Eton in writing of any adverse event relating to the Product.

***Text has been omitted pursuant to Registrant's confidential treatment request filed with the Securities and Exchange Commission ("Commission") pursuant to Rule 406 under the Securities Act of 1933. The omitted text has been filed separately with the Commission.

4.12 Recall.

4.12.1 Each party promptly shall notify the other party if a Product is determined to be the subject of a recall, market withdrawal, or correction (collectively, "Recall"). In the event of a Recall, Eton shall be responsible for coordinating and managing such Recall. *** shall reasonably cooperate with Eton and take all necessary actions that may be necessary for Eton to manage the Recall, including providing Eton with any and all data, information and documents requested by Eton within three (3) days of such request. The parties agree to cooperate in case of a Recall and provide such information as may be necessary to effectuate the Recall and to satisfy any regulatory requests about the Recall.

4.12.2 If a Recall is due solely to Eton's breach of its obligations herein, gross negligence or willful misconduct, then Eton shall bear all reasonable out-of-pocket costs and expenses (including attorneys' fees) in connection with the Recall incurred by either party or its Affiliates, including all notification letters, postage, phone calls, faxes, courier charges and all shipping expenses (collectively, "Recall Expenses"). In all other cases, *** shall bear all Recall Expenses.

4.13 Access and Inspections.

4.13.1 *** shall (a) permit, and shall cause its Affiliates to permit, the FDA and other regulatory agencies to perform inspections of its factory which contains the manufacturing operations for Product; (b) as soon as reasonably practicable, but in no event later than forty-eight (48) hours after being notified of any proposed visit to, or inspection of, the factory, notify Eton of such inspections; and (c) permit Eton or its representatives to be present and participate in such visit or inspection. *** promptly shall notify Eton of all results of an inspection that affect the manufacturing processes of Product or that may affect *** ability to supply Products to Eton hereunder.

4.13.2 During the Term and for a period of two (2) years thereafter, *** shall make available to Eton or its representatives upon request all documentation, records, raw data, specimens, labeling, certificates, specifications, formulae, data, procedures, and other work product relating to the manufacture or testing of the Product, equipment, and facilities relating to this Agreement within thirty (30) days advance notice for inspection by Eton, its representatives, including authorized Third Party consultants, or representatives of the FDA or any other regulatory authority.

***Text has been omitted pursuant to Registrant's confidential treatment request filed with the Securities and Exchange Commission ("Commission") pursuant to Rule 406 under the Securities Act of 1933. The omitted text has been filed separately with the Commission.

4.13.3 Notwithstanding the foregoing, Eton shall have the right to conduct audits under this Section 4.13 for cause, including pursuant to a notice from the FDA or any other regulatory authority or an audit by the FDA or any other regulatory authority, as soon as practicable, but not more than once per year. Eton shall have the right to access any facility manufacturing the Product on behalf of *** pursuant to this Agreement, and all applicable records related thereto, to oversee production of the Product, to discuss and inspect its manufacturing processes, and to test the Product and review *** records or the records of the applicable facility.

4.13.4 If Eton observes, discovers or is notified of any variances from established standards and methods of production of the Product (or any component thereof) at a manufacturing facility, Eton shall give written notice thereof to *** ("Variance Notice"), and upon receipt of any such notice, *** promptly shall take all appropriate remedial or corrective action and give written notice to Eton describing in reasonable detail such actions taken. Upon any failure to cure such variance or noncompliance set forth in the Variance Notice within a reasonable amount of time, not to exceed ninety (90) days, in addition to any rights and remedies available to Eton pursuant to this Agreement or under applicable law, Eton shall have the option to (a) implement such necessary remedial actions necessary to cure such variance, or (b) terminate this Agreement. No inspections, audits or testing performed by Eton as set forth in this Section shall relieve *** of any liability for the Product later found to be defective or for *** failure to meet its obligations under this Agreement.

5. Financial Terms.

5.1 Remittance to ***.

5.1.1 Subject to the terms and conditions of this Agreement, Eton shall pay to *** thirty percent (30%) of the Product Profits.

5.1.2 In the event that a Product is sold by Eton or its Affiliates in combination with one or more products which is itself not a Product, then Net Sales of such combination shall be adjusted by multiplying the Net Sales of such combination by the fraction A/(A+B) where A is the fair market value of the Product(s) and B is the fair market value of the other product(s) in the combination sale, each as reasonably determined by Eton.

***Text has been omitted pursuant to Registrant's confidential treatment request filed with the Securities and Exchange Commission ("Commission") pursuant to Rule 406 under the Securities Act of 1933. The omitted text has been filed separately with the Commission.

5.2 Reports and Payments. Within forty-five (45) days after the end of each calendar quarter, Eton shall deliver to *** a report showing for such calendar quarter in reasonably specific detail the calculation of Net Sales, Gross Profits and Product Profits. Eton shall remit the total payments due during such calendar quarter at the time such report is made. Payment in whole or in part may be made in advance of such due date. Reports before the First Commercial Sale of such Product will only detail amounts Eton has spent on Clinical Costs and Recovery Amounts. No payments shall be due for any Product before the First Commercial Sale. With respect to amounts received in United States dollars, all amounts shall be expressed in United States dollars. With respect to amounts received in a currency other than United States dollars, all amounts shall be expressed both in the currency in which the amount is invoiced (or received as applicable) and in the United States dollar equivalent. The United States dollar equivalent shall be calculated using the average of the exchange rate (local currency per US $1) published in The Wall Street Journal, Eastern Edition, under the heading "Currency Trading" on the last business day of each month during the applicable calendar quarter.

5.3 Withholding Taxes. Eton shall be entitled to deduct the amount of any withholding taxes, value-added taxes or other taxes, levies or charges with respect to such amounts payable by Eton or its Affiliates, or any taxes required to be withheld by Eton or its Affiliates, to the extent Eton or its Affiliates pay to the appropriate governmental authority on behalf of *** such taxes, levies or charges. Eton shall use reasonable efforts to minimize any such taxes, levies or charges required to be withheld on behalf of *** by Eton or its Affiliates. Eton promptly shall deliver to *** proof of payment of all such taxes, levies and other charges, together with copies of all communications from or with such governmental authority with respect thereto.

5.4 Audits.

5.4.1 Upon the written request of a party (the "Auditing Party") and not more than once in each calendar year, the other party shall permit an independent certified public accounting firm of nationally recognized standing selected by the Auditing Party and reasonably acceptable to the other party, at the Auditing Party's expense, to have access during normal business hours to such of the financial records of the other party as may be reasonably necessary to verify the accuracy of any invoices, reports, or other records of any amounts owed hereunder for the eight (8) calendar quarters immediately prior to the date of such request (other than records for which the Auditing Party has already conducted an audit under this Section).

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5.4.2 If such accounting firm concludes that additional amounts were owed during the audited period, the other party shall pay such additional amounts within thirty (30) days after the date the Auditing Party delivers to the other party such accounting firm's written report so concluding. The fees charged by such accounting firm shall be paid by the Auditing Party; provided, however, to the extent the auditor determines an underpayment discrepancy greater than ten percent (10%), then the other party shall pay the reasonable fees and expenses charged by such accounting firm.

5.4.3 The Auditing Party shall cause its accounting firm to retain all financial information subject to review under this Section 5.4 in strict confidence; provided, however, that the other party shall have the right to require that such accounting firm, prior to conducting such audit, enter into an appropriate and reasonable non-disclosure agreement with the other party regarding such financial information. The accounting firm shall disclose to the Auditing Party only whether the amounts are correct or not and the amount of any discrepancy. No other information shall be shared. The Auditing Party shall treat all such financial information as the other party's Confidential Information (as defined below), and shall not disclose such financial information to any Third Party or use it for any purpose other than as specified in this Section 5.4.

6. Indemnification and Insurance.

6.1 Indemnification by ***. *** shall indemnify, defend and hold harmless Eton, its Affiliates, and its and their respective officers, directors, shareholders, employees, agents and representatives (collectively "Eton Indemnitees") from any and all losses, liabilities, damages and expenses, including reasonable attorneys' fees and costs (collectively, "Losses") arising from any claim, demand, action or other proceeding by a Third Party, to the extent arising out of or caused by (a) gross negligence or willful misconduct of ***, its agents or Affiliates; (b) any breach of any representation, warranty or covenant of this Agreement by ***; (c) *** failure to fully comply with all applicable laws regarding Product, its use, or any part thereof; or (d) infringement of any intellectual property rights of a Third Party or misappropriation by *** or its Affiliates of any know-how of a Third Party by use or exploitation of the *** Technology; provided, however, that the foregoing indemnity obligations shall not apply to the extent that any Loss arises from, is based on, or results from any matter set forth in Section 6.2 for which Eton is obligated to indemnify *** Indemnitees.

***Text has been omitted pursuant to Registrant's confidential treatment request filed with the Securities and Exchange Commission ("Commission") pursuant to Rule 406 under the Securities Act of 1933. The omitted text has been filed separately with the Commission.

6.2 Indemnification by Eton. Eton shall indemnify, defend and hold harmless ***, its Affiliates, and its and their respective officers, directors, shareholders, employees, agents and representatives (collectively "*** Indemnitees") from any and all Losses arising from any claim, demand, action or other proceeding by a Third Party, to the extent arising out of or caused by (a) gross negligence or willful misconduct of Eton, its agents or Affiliates; (b) any breach of any representation, warranty or covenant of this Agreement by Eton; (c) Eton's failure to fully comply with all applicable laws regarding Product, its use, or any part thereof; (d) the use of Product in accordance with the applicable label by any customer; (e) infringement of any intellectual property rights of a Third Party or misappropriation by Eton or its Affiliates of any know-how of a Third Party by the use, exploitation or commercialization of the Product; or (f) use of Eton's Trademarks; provided, however, that the foregoing indemnity obligations shall not apply to the extent that any Loss arises from, is based on, or results from any matter set forth in Section 6.1 for which *** is obligated to indemnify Eton Indemnitees.

6.3 Procedure. A party seeking indemnification (the "Indemnitee") shall promptly notify the other party (the "Indemnifying Party") in writing of a claim, demand, action or proceeding; provided that an Indemnitee's failure to give such notice or delay in giving such notice shall not affect such Indemnitee's right to indemnification under this Section 6 except to the extent that the Indemnifying Party has been prejudiced by such failure or delay. The Indemnifying Party shall have the right to control the defense of all indemnification claims hereunder. The Indemnitee shall have the right to participate at its own expense in the claim, demand, action or proceeding with counsel of its own choosing. The Indemnifying Party shall consult with the Indemnitee in good faith with respect to all non-privileged aspects of the defense strategy. The Indemnitee shall cooperate with the Indemnifying Party as reasonably requested at the Indemnifying Party's sole cost and expense. The Indemnifying Party shall not settle or otherwise consent to an adverse judgment in any such claim, demand, action or other proceeding that diminishes the rights or interests of the Indemnitee without the prior express written consent of the Indemnitee, which consent shall not be unreasonably withheld or delayed.

6.4 Limitation of IP Indemnification. If the Indemnifying Party reasonably determines that the aggregate of the Litigation Expenses and the Losses arising out of or caused by infringement or misappropriation described in this Section 6 is likely to exceed two million dollars ($2,000,000), then, without prejudice to any other rights or remedies the parties may have, the parties shall discuss in good faith the merits of continuing to incur such Litigation Expenses or Losses.

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6.5 Insurance. Each Party shall obtain, at its expense, the following minimum insurance coverages during the Term and for five (5) years thereafter. Each party shall provide a certificate of insurance evidencing such coverage to the other party upon request.

6.5.1 *** shall obtain the following insurance coverages:

(a) worker's compensation insurance as required by applicable law;

(b) product liability insurance with respect to the Product with a minimum of five million dollars ($5,000,000) per occurrence and five million dollars ($5,000,000) annual aggregate for bodily injury and property damage;

(c) commercial general liability insurance with a minimum of five million dollars ($5,000,000) per occurrence and five million dollars ($5,000,000) annual aggregate; and

(d) property insurance (sufficient to fully cover the cost of replacement), through the designated freight carrier or otherwise, on all of the Products at all times until receipt by Eton.

6.5.2 Eton shall obtain the following insurance coverages:

(a) worker's compensation insurance as required by applicable law;

(b) product liability insurance with respect to the Product with a minimum of five million dollars ($5,000,000) per occurrence and five million dollars ($5,000,000) annual aggregate for bodily injury and property damage; and

(c) commercial general liability insurance with a minimum of five million dollars ($5,000,000) per occurrence and five million dollars ($5,000,000) annual aggregate.

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6.6 LIMITATION OF LIABILITY. WITHOUT LIMITING THE RIGHTS OR REMEDIES OF THE PARTIES REGARDING THE OBLIGATIONS TO INDEMNIFY, DEFEND AND HOLD HARMLESS FOR INTELLECTUAL PROPERTY INFRINGEMENT PURSUANT TO SECTION 6.1(d) AND SECTION 6.2(e) THE MAXIMUM LIABILITY OF EACH PARTY SHALL BE CAPPED AT $1 MILLION AND NEITHER PARTY SHALL BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, WHETHER FORESEEABLE OR NOT, ARISING OUT OF THIS AGREEMENT OR THE EXERCISE OF ITS RIGHTS HEREUNDER, REGARDLESS OF ANY NOTICE OF SUCH DAMAGES.

7. Confidentiality.

7.1 Confidential Information. Each party shall maintain in confidence any and all information of the other party that is disclosed by the other party, whether disclosed orally or in written, graphic, schematic, or electronic form, and identified as, or acknowledged to be, confidential at the time of disclosure (the "Confidential Information"), and shall not use, disclose or grant the use of the Confidential Information except on a strictly need-to-know basis to those directors, officers, affiliates, employees, permitted licensees, permitted assignees and agents, consultants, clinical investigators or contractors, to the extent such disclosure is reasonably necessary in connection with performing its obligations or exercising its rights under this Agreement. To the extent that disclosure is authorized by this Agreement, prior to disclosure, each party hereto shall obtain agreement of any such Person to hold in confidence and not make use of the Confidential Information for any purpose other than those permitted by this Agreement. Each party shall notify the other promptly upon discovery of any unauthorized use or disclosure of the other party's Confidential Information.

7.2 Permitted Disclosures. The confidentiality obligations contained in Section 7.1 above shall not apply to the extent that (a) any receiving party (the "Recipient") is required (i) to disclose information by law, regulation or order of a governmental agency or a court of competent jurisdiction, or (ii) to disclose information to any governmental agency for purposes of obtaining approval to test or market a product, provided in either case that the Recipient shall provide written notice thereof to the other party and sufficient opportunity to object to any such disclosure or to request the highest level of confidential treatment thereof; or (b) the Recipient can demonstrate that (i) the disclosed information was public knowledge at the time of such disclosure to the Recipient, or thereafter became public knowledge, other than as a result of actions of the Recipient in violation hereof; (ii) the disclosed information was rightfully known by the Recipient (as shown by its written records) prior to the date of disclosure to the Recipient by the other party hereunder; (iii) the disclosed information was disclosed to the Recipient on an unrestricted basis from a source unrelated to any party to this Agreement and not under a duty of confidentiality to the other party; or (iv) the disclosed information was independently developed by the Recipient without use of the Confidential Information disclosed by the other party.

7.3 Terms of this Agreement. Except as otherwise provided in Section 7.2 above, neither party shall disclose any terms or conditions of this Agreement to any Third Party without the prior consent of the other party. Upon a party's request, the parties shall discuss in good faith information that can be used to describe the terms of this transaction, and each party may disclose such information, as modified by mutual agreement from time to time, without the other party's consent.

7.4 Injunctive Relief. Each party acknowledges that it will be impossible to measure in money the damage to the other party if such party fails to comply with the obligations imposed by this Section 7, and that, in the event of any such failure, the other party may not have an adequate remedy at law or in damages. Accordingly, each party agrees that injunctive relief or other equitable remedy, in addition to remedies at law or damages, is an appropriate remedy for any such failure and shall not oppose the granting of such relief on the basis that the disclosing party has an adequate remedy at law. Each party agrees that it shall not seek, and agrees to waive any requirement for, the securing or posting of a bond in connection with the other party seeking or obtaining such equitable relief.

8. Term and Termination.

8.1 Term. The Agreement shall commence on the Effective Date and shall continue for a period of ten (10) years from the commercial launch date of Product by Eton unless earlier terminated under Section 8.2 (the "Term").

8.2 Termination.

8.2.1 In the event of a material breach of this Agreement by either party, including for violation of any applicable trade control or anti-corruption law, the non-breaching party may provide written notice of such breach to the breaching party, including a description of the breach, and indicating the non-breaching party's intent to terminate this Agreement. The breaching party shall have thirty (30) days from its receipt of such notice to cure the breach, provided the breach is capable of being cured within the thirty (30) day period. If the breaching party fails to cure the breach within such period, then unless otherwise agreed by the non-breaching party, this Agreement shall terminate on the date that is thirty (30) days following the breaching party's receipt of the notice of breach from the non-breaching party. If the breach is not capable of being remedied within thirty (30) days, the Agreement terminates upon the written notice.

8.2.2 Each party shall have the right to terminate this Agreement immediately upon written notice if the manufacture, distribution or sale of Product in the Territory materially contravenes any new or existing applicable law and cannot be brought into compliance with such law within a reasonable period of time after notice thereof.

8.2.3 Eton shall have the right to terminate this Agreement (a) immediately upon written notice to *** for *** failure to cure such variance or noncompliance set forth in a Variance Notice pursuant to Section 4.13.3; (b) upon six (6) months prior written notice to *** if any of *** Certificates of Analysis or Certificates of Conformance reveal that the Product is not in compliance with the Specifications and such non-compliance is not cured before the expiration of such six (6) month period; or (c) upon thirty (30) days prior written notice to *** if *** fails to complete the *** Development Activities and otherwise fulfill its obligations under Section 3.2.1 within two (2) years after the Effective Date.

8.2.4 Eton shall have the right to terminate this Agreement upon thirty (30) days prior written notice to *** if (a) Eton determines that the aggregate of Losses arising out of or caused by infringement or misappropriation described in clause (e) of Section 6.2 and Litigation Expenses is reasonably likely to exceed two million dollars ($2,000,000); (b) the FDA issues a Refusal to File letter in response to the initial Regulatory Filing for Product; (c) Product is not first commercially sold within three (3) years after the Effective Date; (d) Eton determines, after consulting with ***, that a Product presents patient safety or tolerability issues; (e) Product Profits are less than thirty percent (30%) of the gross sales price invoiced by Eton for two (2) consecutive calendar quarters; or (f) Eton otherwise reasonably determines to terminate this Agreement for regulatory, safety or commercial reasons.

8.3 Effect of Termination or Expiration.

8.3.1 Termination or expiration of this Agreement shall be without prejudice to any rights which shall have accrued to the benefit of any party prior to such termination or expiration. Without limiting the foregoing, Sections 2.3, 3.4, 3.5, 4.1.2, 4.6, 4.11, 4.12, 4.13, 6, 7, 8.3 and 9 shall survive any termination or expiration of this Agreement.

***Text has been omitted pursuant to Registrant's confidential treatment request filed with the Securities and Exchange Commission ("Commission") pursuant to Rule 406 under the Securities Act of 1933. The omitted text has been filed separately with the Commission.

8.3.1 If Eton terminates this Agreement in accordance with Sections 8.2.2 or 8.2.4, then Eton shall, within thirty (30) days after the date of termination, reimburse *** the positive remainder, if any, of the *** Development Costs minus the aggregate amount of Product Profits paid by Eton to ***.

9. Miscellaneous.

9.1 Relationship of Parties. The relationship between *** and Eton, with respect to this Agreement, is only that of independent contractors notwithstanding any activities set forth in this Agreement. Neither party is the agent or legal representative of the other party, and neither party has the right or authority to bind the other party in any way. This Agreement creates no relationship as partners or a joint venture, and creates no pooling arrangement.

9.2 Governing Law and Resolution of Disputes.

9.2.1 This Agreement shall be governed by and construed in accordance with the laws of the State of New York without reference to its conflict of laws principles.

9.2.2 Any and all disputes or claims arising from or out of this Agreement shall be litigated exclusively before a court of the State of New York in New York City or, if subject matter jurisdiction exists, the United States District Court for the Southern District of New York. Each party hereby irrevocably and unconditionally consents to the exclusive personal jurisdiction and service of, and venue of, any such court, and further irrevocably and unconditionally waives and agrees not to plead or claim that any action, lawsuit or proceeding brought in any such court has been brought in an inconvenient forum. Any judgment issued by such a court may be enforced in any court having jurisdiction.

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9.3 Assignment. Neither party shall assign its rights or obligations under this Agreement without the prior written consent of the other party, which shall not be unreasonably withheld or delayed; provided, however, that a party may, without such consent, assign this Agreement and its rights and obligations hereunder (a) to any Affiliate, or (b) in connection with the transfer or sale of all or substantially all of its business to which this Agreement relates, or in the event of its merger, consolidation, change in control or similar transaction. Any permitted assignee shall assume all obligations of its assignor under this Agreement. Any purported assignment in violation of this Section 9.3 shall be void.

9.4 Counterparts. This Agreement may be executed in several counterparts that together shall be originals and constitute one and the same instrument.

9.5 Waiver. The failure of any party to enforce any of its rights hereunder or at law shall not be deemed a waiver of any of its rights or remedies against another party, unless such waiver is in writing and signed by the party to be charged. No such waiver shall be deemed a waiver of any subsequent breach or default of the same or similar nature or any other breach or default by such other party. All rights and remedies conferred herein shall be cumulative and in addition to all of the rights and remedies available to each party at law, equity or otherwise.

9.6 Severability. If any provision of this Agreement, or part thereof, is declared by a court of competent jurisdiction to be invalid, void or unenforceable, each and every other provision, or part thereof, shall nevertheless continue in full force and effect.

9.7 Notices. Any consent, notice or report required or permitted to be given or made under this Agreement by a party to the other party shall be in writing, delivered by any lawful means to such other party at its address indicated below, or to such other address as the addressee shall have last furnished in writing to the addressor and (except as otherwise provided in this Agreement) shall be effective upon receipt by the addressee.

If to ***:***

If to Eton: Eton Pharmaceuticals, Inc.
21925 Field Pkwy, Suite 235
Deer Park, Illinois 60010
Attention: Chief Executive Officer

9.8 Further Assurances. The parties agree to execute such additional documents and perform such acts as are reasonably necessary to effectuate the intent of this Agreement.

9.9 Entire Agreement. This Agreement constitutes the entire agreement between the parties regarding the subject matter hereof, and supersedes all prior or contemporaneous understandings or agreements regarding the subject matter hereof, whether oral or written. This Agreement shall be modified or amended only by a writing specifically referring to this Agreement signed by both Eton and ***.

9.10 Force Majeure. Neither Party shall be liable for delays in its performance caused by events beyond its control, such as fires, floods, epidemics, computer virus, earthquakes, riots, acts of terror, acts of God, storms, acts of civil or military authority or similar occurrences, provided the affected party gives the other party written notice of such event within three (3) business days of its occurrence. Such notice shall state the estimated duration of such event and the cause thereof and the affected party shall use commercially reasonable efforts to work around such event beyond its control.

9.11 Use of Other Party's Name. Neither Party shall use the name of the other Party or any of its Affiliates for advertising, promotional or other purposes without the prior written consent of the other Party.

***Text has been omitted pursuant to Registrant's confidential treatment request filed with the Securities and Exchange Commission ("Commission") pursuant to Rule 406 under the Securities Act of 1933. The omitted text has been filed separately with the Commission.

9.12 Headings and Construction. No rule of construction shall be applied to the disadvantage of a party because that party was responsible for the preparation of this Agreement or any part of this Agreement. The Article and Section headings in this Agreement are for convenient reference only and shall be given no substantive or interpretive effect. With respect to all terms used in this Agreement, words used in the singular include the plural and words used in the plural include the singular. The word 'including' means including without limitation, and the words 'herein,' 'hereby,' 'hereto' and 'hereunder' refer to this Agreement as a whole. Unless the context otherwise requires, references found in this Agreement: (i) to Articles and Sections mean the Articles and Sections of this Agreement, as amended, supplemented and modified from time to time; (ii) to an agreement, instrument or other document means such agreement; (iii) to an agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time, to the extent provided by the provisions thereof and by this Agreement; and (iv) to a statute or a regulation mean such statute or regulation as amended from time to time.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, each party has caused a duly authorized representative to execute this Agreement as of the Effective Date.

***

***

ETON PHARMACEUTICALS, INC.

By: */s/ Sean Brynjelsen*
Name: Sean Brynjelsen
Title: CEO

***Text has been omitted pursuant to Registrant's confidential treatment request filed with the Securities and Exchange Commission ("Commission") pursuant to Rule 406 under the Securities Act of 1933. The omitted text has been filed separately with the Commission.

Exhibit 10.9

SALES/MARKETING AGREEMENT

THIS SALES/MARKETING AGREEMENT (this "Agreement") dated as of November 17, 2017 (the "Effective Date"), is entered into between AL PHARMA, INC, an Oklahoma corporation ("AL"), with a place of business at 7301 Broadway Extension, Suite 110, Oklahoma City, Oklahoma 73116, SCS NATIONAL, LLC, an Oklahoma limited liability company with a mailing address of P.O. Box 54606, Oklahoma City, OK 73154 ("SCS"), DRY CREEK PROJECT, LLC with a mailing address of 5105 108th Ave., SE, Noble, OK 73068 ("DCP"), and ETON PHARMACEUTICALS, INC., a Delaware corporation ("Eton"), with a place of business at 21925 Field Pkwy, Suite 235, Deer Park, Illinois 60010. The parties hereby agree as follows:

1. Definitions. For the purposes of this Agreement, the following terms shall have the respective meanings set forth below and grammatical variations of such terms shall have corresponding meanings:

1.1 "Affiliate" shall mean, with respect to any Person, any other Person which directly or indirectly controls, is controlled by, or is under common control with, such Person. A Person shall be regarded as in control of another Person if it owns, or directly or indirectly controls, more than fifty percent (50%) of the voting stock or other ownership interest of the other Person, or if it directly or indirectly possesses the power to direct or cause the direction of the management and policies of the other Person by any means whatsoever.

1.2 "AL IP Rights" shall mean, collectively, the AL Patent Rights and the AL Know-How Rights.

1.3 "AL Know-How Rights" shall mean all trade secret and other know-how rights in the Territory, in which AL or its Affiliates heretofore or hereafter during the term of this Agreement has an ownership or (sub) licensable interest, in and to the Technology.

1.4 "AL Patent Rights" shall mean (a) all patents and patent applications in the Territory that claim or cover the Technology in which AL or its Affiliates heretofore or hereafter during the term of this Agreement has an ownership or (sub)licensable interest, (b) all divisions, continuations, continuations-in-part, that claim priority to, or common priority with, the patent applications described in clause (a) above or the patent applications that resulted in the patents described in clause (a) above, and (c) all patents that have issued or in the future issue from any of the foregoing patent applications, including utility models, design patents and certificates of invention, together with any reissues, reexaminations, renewals, extensions or additions thereto.

1.5 "ANDA" shall mean an Abbreviated New Drug Application, or similar application for marketing approval of a Product submitted to the FDA.

1.6 "CMO" – the contract manufacturing organization designated by Eton who shall manufacture the Product for Eton.

1.7 “Commercialize” or “Commercialization” means those activities relating to the manufacturing, having manufactured, promotion, marketing, distribution, importation, offering to sell and/or sale of Licensed Products.

1.8 “Commercially Reasonable Efforts” means, with respect to specific tasks or activities conducted under this Agreement, the level of efforts and resources commonly used in the diagnostics, pharmaceutical and medical device industry, as applicable, to conduct such tasks or activities with respect to products at a similar stage (to the applicable Licensed Product) in its product life and of similar market potential, based on information and conditions then-prevailing, in each case, by a similarly situated pharmaceutical company.

1.9 “FDA” shall mean the Food and Drug Administration of the United States or any successor thereto.

1.10 “First Commercial Sale” shall mean, with respect to any Product, the first sale of such Product after all applicable marketing and pricing approvals (if any) have been granted by the FDA.

1.11 “Gross Profits” shall mean Net Sales less all product costs incurred by Eton, including but not limited to transfer price, manufacturing fees, API expenses, and shipping costs.

1.12 “Insignia” shall mean trademarks, trade names, logos, symbols, badges, labels, decorative designs, packaging designs or similar trade dress.

1.13 “NDA” shall mean a New Drug Application, or similar application for marketing approval of a Product submitted to the FDA.

1.14 “Net Sales” shall mean the gross sales price of Products invoiced with respect to sales of the Product by Eton, an Affiliate (but excluding sales by Eton to customers who are Affiliates unless such Affiliates are the end users of such Product less (a) credits, allowances, returns, discounts and rebates to, and chargebacks from the account of, such customers; (b) freight and insurance costs in transporting Products; (c) cash, quantity and trade discounts, rebates and other price reductions for Products; (d) sales, use, value-added and other direct taxes; and (e) customs duties, tariffs, surcharges and other governmental charges incurred in exporting or importing Products.

1.15 “Person” shall mean any individual, partnership, firm, corporation, association, trust, unincorporated organization or other entity, as well as any syndicate or group of any of the foregoing.

1.16 “Product” shall mean any product, in any form or formulation for injectable administration, containing ***.

1.17 “Product Profits” shall mean Gross Profits, less litigation expenses, if any; pharmacovigilance and REMS expenses, if any; recall related expenses, if any; PDUFA/GDUFA fees or any other registration and regulatory fees; and 5% of Net Sales for SG&A costs, up to a maximum of $2 million per calendar year.

1.18 “Registration” shall mean any registration, license, permit or governmental approval or clearance necessary for the purchase, distribution, promotion, marketing or sale of a product.

1.19 “Technology” shall mean, collectively, all forms and formulations comprising ***, all methods of manufacture or use thereof, and all data, information, compositions and other technology (including formulae, procedures, protocols, techniques and results of experimentation and testing) which are necessary or useful to make, use, sell, offer for sale, import, develop, seek regulatory approval, market, commercialize or otherwise exploit the foregoing.

1.20 “Territory” shall mean collectively all the territories and possessions of the United States of America.

1.21 “Third Party” shall mean any Person other than Eton, AL or their respective Affiliates.

2. Grant of Rights. Subject to the terms and conditions of this Agreement, AL hereby grants to Eton an exclusive right and license under the AL IP Rights to develop, make, have made, use, offer for sale, sell, import, or otherwise exploit, commercialize or dispose of Products in the Territory. Eton may sublicense the AL IP Rights as necessary to any Third Party to manufacture Product; Eton shall obtain the prior written approval of AL to sublicense any AL IP Rights to a Third Party for any other purpose.

3. Product Development and Registration.

3.1 FDA Submission. AL shall take all reasonably necessary actions to support submission and approval of an NDA or ANDA for Product by performing such development and obtaining such data and information as reasonably necessary therefor at its own expense; provided, however, that AL shall not be responsible for engaging the CMO or the performance of the obligations of the CMO that are necessary to support the submission and approval of the NDA or ANDA for Product, including the manufacture of exhibit batches and the payment of transfer costs, which costs shall be paid by Eton.

***Text has been omitted pursuant to Registrant’s confidential treatment request filed with the Securities and Exchange Commission (“Commission”) pursuant to Rule 406 under the Securities Act of 1933. The omitted text has been filed separately with the Commission.

3.2 Other Regulatory Submissions. Other than FDA Registration, Eton shall be responsible for Registration of Product in the Territory. AL agrees to provide advisory assistance when requested from Eton. Eton shall be responsible for payment of all registration and filing costs and fees related to Product. Without limiting anything set forth herein, AL shall reasonably assist, execute such certificates and other instruments and otherwise cooperate with Eton in obtaining any Registrations as necessary to permit the promotion, marketing and sale of the Products in the Territory and comply with all Registration requirements therein. Without limiting the generality of the foregoing, AL shall execute such certificates and other instruments, take such actions and otherwise cooperate as reasonably requested by Eton in connection with all regulatory filings and Registrations for the Products and all contacts with the applicable regulatory authorities in connection therewith.

3.3 Commercialization of Product. Eton shall use commercially reasonable efforts to commercialize Product in the Territory.

4. Product Manufacture and Supply.

4.1 Eton Manufacture. Eton, by itself or through its CMO, shall manufacture the Product in conformity with the applicable law, requirements and specifications. Any changes to the manufacturing of Product that would require FDA approval must be pre-approved by AL in order that AL may appropriately update the NDA. All manufacturers, including the CMO, shall purchase raw materials and components through vendors approved for the Product by the FDA pursuant to the NDA. Eton shall be responsible for ensuring that each manufacturer, including the CMO, complies with the terms of this Agreement and delivers Product in conformance with the requirements of (a) all applicable law; and (b) current Good Manufacturing Practices ("cGMP"); and (c) this Agreement. Any and all manufacturers manufacturing the Product or any component thereof must have received and continue to maintain satisfactory cGMP inspection status.

4.2 Eton Oversight. Eton shall be wholly responsible for and ensure that CMO complies with all the requirements under this Agreement as if CMO were a party to this Agreement, and expressly acknowledges that any act or omission by CMO, which would constitute a breach of this Agreement, constitutes a breach hereof by Eton.

5. Product Branding.

5.1 Eton shall label and package all Product in accordance with applicable laws.

6. Representations and Warranties; Covenants.

6.1 Representations and Warranties of AL. AL hereby represents and warrants to Eton as follows:

6.1.1 AL is a corporation duly organized, validly existing and in good standing under the laws of the State of Oklahoma.

6.1.2 AL (a) has the requisite power and authority and the legal right to enter into this Agreement and to perform its obligations hereunder, and (b) has taken all necessary action on its part to authorize the execution and delivery of this Agreement and the performance of its obligations hereunder. This Agreement has been duly executed and delivered on behalf of AL, and constitutes a legal, valid, binding obligation, enforceable against AL in accordance with its terms.

6.1.3 All necessary consents, approvals and authorizations of all governmental authorities and other Persons required to be obtained by AL in connection with this Agreement have been obtained.

6.1.4 The execution and delivery of this Agreement and the performance of AL's obligations hereunder (a) do not conflict with or violate any requirement of applicable laws or regulations, and (b) do not conflict with, or constitute a default under, any of its contractual obligation. Neither AL, its (sub)contractors, nor any of its or their officers, directors, employees or consultants, have been debarred by the FDA or other applicable governing health authority (or authorities), under any existing or prior law or regulation.

6.1.5 Neither the Product nor any use thereof violates or infringes upon or misappropriate the intellectual property rights of any Third Party. There is neither pending nor threatened any claim, litigation or proceeding in any way contesting AL's rights to manufacture or supply the Product or attacking the validity or enforceability of any AL IP Rights related to its manufacturing processes.

6.2 Representations and Warranties of Eton. Eton hereby represents and warrants to AL as follows:

6.2.1 Eton is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware.

6.2.2 Eton (a) has the corporate power and authority and the legal right to enter into this Agreement and to perform its obligations hereunder, and (b) has taken all necessary corporate action on its part to authorize the execution and delivery of this Agreement and the performance of its obligations hereunder. This Agreement has been duly executed and delivered on behalf of Eton, and constitutes a legal, valid, binding obligation, enforceable against Eton in accordance with its terms.

6.2.3 All necessary consents, approvals and authorizations of all governmental authorities and other Persons required to be obtained by Eton in connection with this Agreement have been obtained.

6.2.4 The execution and delivery of this Agreement and the performance of Eton's obligations hereunder (a) do not conflict with or violate any requirement of applicable laws or regulations, and (b) do not conflict with, or constitute a default under, any contractual obligation of it. Neither Eton, its (sub)contractors, nor any of its or their officers, directors, employees or consultants, have been debarred by the FDA or other applicable governing health authority (or authorities), under any existing or prior law or regulation.

6.2.5 Eton shall manufacture, store and supply the Product in conformity with, and otherwise perform its obligations hereunder in accordance with all applicable laws (including cGMP and all applicable FDA regulatory requirements), this Agreement and generally accepted professional standards

6.3 Product Warranties. Eton covenants and warrants that (a) the Product shall be free from defect in workmanship and materials; (b) the Product shall meet all required specifications; and (c) upon delivery of a Product and during such time as such Product was under Eton's control, the Product shall be in conformity with applicable law, and shall not be adulterated, misbranded, misused, contaminated, tampered with or otherwise altered, mishandled, or subjected to negligence. Eton additionally covenants and warrants that the Product supplied hereunder shall only be manufactured using components purchased from vendors approved by the FDA pursuant to the NDA or ANDA.

7. Financial Terms

7.1 Profit Share Amount. AL shall receive 100% of the first $1 million of lifetime Product Profit as compensation for previously incurred development costs; thereafter, AL shall receive 25% of all Product Profit, SCS shall receive 12.5% of all Product Profits, and DCP shall receive 12.5% of all Product Profit (collectively the "Profit Shares"), and Eton shall retain the remaining 50% of the Product Profits.

7.1.1 Combination/Bundled Products. In the event that a Product is sold by Eton or its Affiliates in combination with one or more products which is itself not a Product, then Net Sales shall be calculated by multiplying the sales price of such combination sale by the fraction A/(A+B) where A is the fair market value of the Product(s) and B is the fair market value of the other product(s) in the combination sale, each as reasonably determined by Eton.

7.2 Reports and Remittance Payments. Within thirty (30) days after the end of each calendar quarter, Eton shall deliver to each of AL, SCS, and DCP a report showing for such calendar quarter in reasonably specific detail the calculation of the Profit Share amount payable. Eton shall remit the total payments due during such calendar quarter at the time such report is made. No such reports or payments shall be due for any Product before the First Commercial Sale of such Product. With respect to amounts received in United States dollars, all amounts shall be expressed in United States dollars.

7.3 Payment Provisions.

7.3.1 Payment Terms. The compensation due AL, SCS, and DCP as provided in Section 7.1 shown to have accrued by each report provided for under Section 7.2 shall be due and paid on the date such report is due. Payment of any Compensation Payments may be made in whole or in part in advance of such due date.

7.3.2 Withholding Taxes. Eton shall be entitled to deduct the amount of any withholding taxes, value-added taxes or other taxes, levies or charges with respect to such amounts payable by Eton or its Affiliates, or any taxes required to be withheld by Eton or its Affiliates, to the extent Eton or its Affiliates pay to the appropriate governmental authority on behalf of AL, SCS, or DCP, such taxes, levies or charges. Eton shall use reasonable efforts to minimize any such taxes, levies or charges required to be withheld on behalf of AL, SCS, or DCP, by Eton or its Affiliates. Eton promptly shall deliver to AL, SCS, and DCP proof of payment of all such taxes, levies and other charges, together with copies of all communications from or with such governmental authority with respect thereto.

7.4 Audits. Eton and its Affiliates shall keep complete and accurate records of the underlying revenue and expense data relating to the calculations of Product Profits and payments required under this Agreement for three (3) years from the end of the calendar quarter in which the Profit Shares were accrued. Upon the written request of AL, SCS, or DCP, and not more than once in each calendar year, Eton shall permit an independent certified public accounting firm of nationally recognized standing selected by the party requesting the audit and reasonably acceptable to Eton, at the party requesting the audit's expense, to have access during normal business hours to such of the financial records of Eton as may be reasonably necessary to verify the accuracy of the reports hereunder for the eight (8) calendar quarters immediately prior to the date of such request (other than records for which a party has already conducted an audit under this Section). If such accounting firm concludes that additional amounts were owed during the audited period, Eton shall pay such additional amounts within thirty (30) days after the date the party requesting the audit delivers to Eton such accounting firm's written report so concluding. The fees charged by such accounting firm shall be paid by the party requesting the audit; provided, however, if the audit discloses that the Profit Share payments due for such period are more than one hundred five percent (105%) of the Profit Share payments actually paid for such period, then Eton shall pay the reasonable fees and expenses charged by such accounting firm. The party requesting the audit shall cause its accounting firm to retain all financial information subject to review under this Section 7.5 in strict confidence; provided, however, that Eton shall have the right to require that such accounting firm, prior to conducting such audit, enter into an appropriate non-disclosure agreement with Eton regarding such financial information. The parties shall treat all such financial information as Eton's confidential information, and shall not disclose such financial information to any Third Party or use it for any purpose other than as specified in this Section 7.4.

8. Indemnification and Insurance.

8.1 Indemnification by AL, SCS, and DCP. Each of AL, SCS, and DCP shall severally and not jointly (in proportion to its Pro Rata Share) indemnify, defend and hold harmless Eton, its Affiliates, and its and their respective officers, directors, shareholders, employees, agents and representatives (collectively "Eton Indemnitees") from any and all losses, liabilities, damages and expenses, including reasonable attorneys' fees and costs (collectively, "Losses") arising from any claim, demand, action or other proceeding by a Third Party, to the extent arising out of or caused by (a) any dispute or claim that AL IT Rights infringe, misappropriate or violate any Third Party's intellectual property rights; (b) any negligent act or omission, recklessness, willful misconduct or fraud of AL, SCS, DCP, or any of their respective agents, or subcontractors; (c) any breach of any representation or warranty of this Agreement by AL, whether resulting from the conduct of AL, the CMO or otherwise; or (d) any claim of a Third Party that any right granted to Eton under this Agreement is in conflict with any of the rights granted to such Third Party or otherwise infringes, conflicts with, breaches or results in a default under any agreement to which such Third Party is or claims to be entitled. For purposes of this Section 8, "Pro Rata Share" shall mean, with respect to AL: 50%, and with respect to each of SCS and DCP: 25%; and in any event, neither AL, SCS, nor DCP shall ever be required to indemnify Eton for any sum in excess of the aggregate respective Profit Shares payment received by such indemnifying party.

8.2 Indemnification by Eton. Eton shall indemnify, defend and hold harmless AL, SCS, DCP and their Affiliates, and its and their respective officers, directors, shareholders, employees, agents and representatives (collectively "AL Indemnitees") from any and all Losses arising from any claim, demand, action or other proceeding by a Third Party, to the extent arising out of or caused by (a) any dispute or claim that any of Eton's marks Insignia or any of their elements, or that the Product, its design or any of its elements, or any Eton manufacturing processes or methods employed or to be employed by or on behalf of Eton or its CMO (other than the AL IT Rights) infringe or violate any Third Party's intellectual property rights; (b) product liability claims, injury to or death of persons or damage to property that may have been caused, or that may be alleged to have been caused, directly or indirectly, by Eton, the CMO or any the manufacturing, storage or transportation processes or methods employed or to be employed at a manufacturing facility used by or on behalf of, Eton, the CMO, any Affiliate thereof, any (sub)contractor of Eton, or any of their respective employees or agents; (c) any defect in the Product, its design, manufacture, or other failure of the Product to comply with its respective specifications, applicable law (including cGMPs) or the other requirements of this Agreement, including any costs associated with a recall; (d) any negligent act or omission, recklessness, willful misconduct or fraud of Eton, its agents, or Affiliates; (e) any breach of any representation or warranty of this Agreement by Eton; or (f) Eton's failure to fully conform to applicable laws which affect the Product, its use, or any part thereof.

8.3 Procedure. A party seeking indemnification (the "Indemnitee") shall promptly notify the other party (the "Indemnifying Party") in writing of a claim, demand, action or proceeding; provided that an Indemnitee's failure to give such notice or delay in giving such notice shall not affect such Indemnitee's right to indemnification under this Section 8 except to the extent that the Indemnifying Party has been prejudiced by such failure or delay. The Indemnifying Party shall have the right to control the defense of all indemnification claims hereunder. The Indemnitee shall have the right to participate at its own expense in the claim, demand, action or proceeding with counsel of its own choosing. The Indemnifying Party shall consult with the Indemnitee in good faith with respect to all non-privileged aspects of the defense strategy. The Indemnitee shall cooperate with the Indemnifying Party as reasonably requested, at the Indemnitee's sole cost and expense. The Indemnifying Party shall not settle any claim, demand, action or proceeding with respect to which without the Indemnitee's prior written consent, which consent shall not be unreasonably withheld.

8.4 Offset. Any party may offset any amounts owing to another party under Section 8 against any amounts otherwise owing by such party to the other party hereunder without otherwise limiting any other rights or remedies available to such party.

8.5 Insurance. Eton shall obtain the following minimum insurance coverages during the Term and for five (5) years thereafter. Such insurance shall be obtained at Eton's sole expense; provided, however, that the cost of the products liability insurance shall be deemed a product cost for purposes of calculating the Gross Profits. Eton shall provide a certificate of insurance evidencing such coverage to the other party upon request.

8.5.1 Eton shall obtain the following insurance coverages:

(a) worker's compensation insurance as required by applicable law;

(b) product liability insurance with respect to the Product with a minimum of five million dollars ($5,000,000) per occurrence and five million dollars ($5,000,000) annual aggregate for bodily injury and property damage, with each of AL, SCS, and DCP, named as additional insureds; and

(c) commercial general liability insurance with a minimum of five million dollars ($5,000,000) per occurrence and five million dollars ($5,000,000) annual aggregate.

8.6 LIMITATION OF LIABILITY. NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, EXCEPT FOR THE OBLIGATIONS TO INDEMNIFY, DEFEND AND HOLD HARMLESS PURSUANT TO THIS SECTION 8 OR THE CONFIDENTIALITY OBLIGATIONS PURSUANT TO SECTION 9 , NO PARTY SHALL BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, WHETHER FORESEEABLE OR NOT, ARISING OUT OF THIS AGREEMENT OR THE EXERCISE OF HIS OR ITS RIGHTS HEREUNDER, REGARDLESS OF ANY NOTICE OF SUCH DAMAGES.

9. Confidentiality.

9.1 Confidential Information. During the Term and for a period of five (5) years thereafter, each party shall maintain in confidence all information of the other party that is disclosed by the other party and identified as, or acknowledged to be, confidential at the time of disclosure (the "Confidential Information"), and shall not use, disclose or grant the use of the Confidential Information except on a need-to-know basis to those directors, officers, affiliates, employees, permitted licensees, permitted assignees and agents, consultants, clinical investigators or contractors, to the extent such disclosure is reasonably necessary in connection with performing its obligations or exercising its rights under this Agreement. To the extent that disclosure is authorized by this Agreement, prior to disclosure, each party hereto shall obtain agreement of any such Person to hold in confidence and not make use of the Confidential Information for any purpose other than those permitted by this Agreement. Each party shall notify the other promptly upon discovery of any unauthorized use or disclosure of the other party's Confidential Information.

9.2 Permitted Disclosures. The confidentiality obligations contained in Section 9.1 above shall not apply to the extent that (a) any receiving party (the "Recipient") is required (i) to disclose information by law, regulation or order of a governmental agency or a court of competent jurisdiction, or (ii) to disclose information to any governmental agency for purposes of obtaining approval to test or market a product, provided in either case that the Recipient shall provide written notice thereof to the other party and sufficient opportunity to object to any such disclosure or to request confidential treatment thereof; or (b) the Recipient can demonstrate that (i) the disclosed information was public knowledge at the time of such disclosure to the Recipient, or thereafter became public knowledge, other than as a result of actions of the Recipient in violation hereof; (ii) the disclosed information was rightfully known by the Recipient (as shown by its written records) prior to the date of disclosure to the Recipient by the other party hereunder; (iii) the disclosed information was disclosed to the Recipient on an unrestricted basis from a source unrelated to any party to this Agreement and not under a duty of confidentiality to the other party; or (iv) the disclosed information was independently developed by the Recipient without use of the Confidential Information disclosed by the other party.

9.3 Terms of this Agreement. Except as otherwise provided in Section 9.2 above, neither party shall disclose any terms or conditions of this Agreement to any Third Party without the prior consent of the other party.

9.4 Injunctive Relief. Each party acknowledges that it will be impossible to measure in money the damage to the other party if such party fails to comply with the obligations imposed by this Section 9, and that, in the event of any such failure, the other party may not have an adequate remedy at law or in damages. Accordingly, each party agrees that injunctive relief or other equitable remedy, in addition to remedies at law or damages, is an appropriate remedy for any such failure and shall not oppose the granting of such relief on the basis that the disclosing party has an adequate remedy at law. Each party agrees that it shall not seek, and agrees to waive any requirement for, the securing or posting of a bond in connection with the other party seeking or obtaining such equitable relief.

10. Term and Termination.

10.1 Term. The Agreement shall commence on the Effective Date and shall continue for a period of ten (10) years after First Commercial Sale of Product unless earlier terminated under Section 10.3 (the "Term"). The Term shall also include any renewal term pursuant to Section 10.2 below.

10.2 Renewal Term. This Agreement shall automatically renew for one five (5) year term unless Eton provides to AL, SCS, and DCP written notice of non-renewal at least ninety (90) days prior to the end of the then-current term.

10.3 Termination.

10.3.1 In the event of a material breach of this Agreement by either party, the non-breaching party may provide written notice of such breach to the breaching party, including a description of the breach, and indicating the non-breaching party's intent to terminate this Agreement. The breaching party will have thirty (30) days from its receipt of such notice to cure the breach, provided the breach is capable of being cured within the thirty (30) day period. If the breaching party fails to cure the breach within such period, then unless otherwise agreed by the non-breaching party, this Agreement shall terminate on the date that is thirty (30) days following the breaching party's receipt of the notice of breach from the non-breaching party. If the breach is not capable of being remedied within thirty (30) days, the Agreement terminates upon the written notice.

10.3.2 Eton may terminate the Agreement upon ten (10) days written notice to AL regarding the rejection of the NDA from the FDA due to a breach by AL of any of its obligations or warranties hereunder, including AL's (or any manufacturer's, including CMO's) failure to comply with cGMP, any delivery deadlines set forth in any schedule provided by Eton in writing, or otherwise comply with approved specifications for Product.

10.3.3 AL, SCS, and DCP may jointly terminate this Agreement upon 30 days notice if (A) Eton chooses not to launch product for solely commercial reasons for a period of more than three (3) months after the FDA has approved the NDA for the Product; or (B) beginning the first calendar year after the First Commercial Sale, annual Net Sales do not exceed $1,000,000. In lieu of termination; AL, SCS, and DCP may jointly eliminate the exclusivity of Eton's license to the AL IP Rights granted pursuant to this Agreement, such that AL may thereafter grant one or more similar licenses to Third Parties.

10.3.4 AL may terminate this Agreement on written notice in the event any of the following occurs with respect to Eton: (a) Eton files a petition in bankruptcy or makes a general assignment for the benefit of creditors or otherwise acknowledges in writing insolvency, or is adjudged bankrupt, and Eton, (i) fails to assume this Agreement in any such bankruptcy proceeding within thirty (30) days after filing or (ii) assumes and assigns this Agreement to a Third Party; (b) Eton goes into or is placed in a process of complete liquidation; (c) a trustee or receiver is appointed for any substantial portion of Eton's business and such trustee or receiver is not discharged within sixty (60) days after appointment; (d) any case or proceeding shall have been commenced or other action taken against Eton in bankruptcy or seeking liquidation, reorganization, dissolution, a winding-up arrangement, composition or readjustment of its debts or any other relief under any bankruptcy, insolvency, reorganization or similar act or law of any jurisdiction now or hereafter in effect is not dismissed or converted into a voluntary proceeding governed by clause (a) above within sixty (60) days after filing; or (e) there shall have been issued a warrant of attachment, execution, distraint or similar process against any substantial part of the property of Eton and such event shall have continued for a period of sixty (60) days and none of the following has occurred: (i) it is dismissed, (ii) it is bonded in a manner reasonably satisfactory to AL, or (iii) it is discharged.

10.3.5 Eton has the option, but not the obligation, to terminate the Agreement upon ten (10) days written notice to AL at its sole discretion if one or more versions of the Product is approved by any party other than AL. AL would keep all manufacturing amounts paid by Eton.

10.4 Effect of Termination or Expiration.

10.4.1 Upon termination of this Agreement pursuant to Section 10: (i) all licenses and rights granted under this Agreement to Eton and its Affiliates shall terminate and revert exclusively to AL; and (ii) Eton (and its Affiliates) shall immediately cease all development and Commercialization of Products.

10.4.2 Termination or expiration of this Agreement shall be without prejudice to any rights which shall have accrued to the benefit of any party prior to such termination or expiration. Without limiting the foregoing, Sections 3, 4, 6, 7, 8, 9, 10, and 11, shall survive any termination or expiration of this Agreement.

11. Miscellaneous.

11.1 Relationship of Parties. The relationship among the parties with respect to this Agreement, is only that of independent contractors notwithstanding any activities set forth in this Agreement. No party is the agent or legal representative of any other party, and no party has the right or authority to bind any other party in any way. This Agreement creates no relationship as partners or a joint venture, and creates no pooling arrangement.

11.2 Governing Law and Resolution of Disputes.

11.2.1 This Agreement shall be governed by and construed in accordance with the laws of the State of Oklahoma without reference to its conflict of laws principles.

11.2.2 Any and all disputes or claims arising or out of this Agreement shall be litigated exclusively before a court in Oklahoma City, Oklahoma. Each party hereto hereby irrevocably and unconditionally consents to the exclusive personal jurisdiction and service of, and venue of, any such court, and further irrevocably and unconditionally waives and agrees not to plead or claim that any action, lawsuit or proceeding brought in any such court has been brought in an inconvenient forum. Any judgment issued by such a court may be enforced in any court having jurisdiction.

11.3 Assignment. No party shall assign its rights or obligations under this Agreement without the prior written consent of the other party, which shall not be unreasonably withheld or delayed; provided, however, that a party may, without such consent, assign this Agreement and its rights and obligations hereunder (a) to any Affiliate, or (b) in connection with the transfer or sale of all or substantially all of its business to which this Agreement relates, or in the event of its merger, consolidation, change in control or similar transaction, (c) or, in the case of AL, SCS, or DCP, to one or more of its equity owners, or (d) in the case of any permitted assign that is an individual, to such Person’s heirs. Any permitted assignee shall assume all obligations of its assignor under this Agreement. Any purported assignment in violation of this Section 11.3 shall be void.

11.4 Counterparts. This Agreement may be executed in several counterparts that together shall be originals and constitute one and the same instrument.

11.5 Waiver. The failure of any party to enforce any of its rights hereunder or at law shall not be deemed a waiver of any of its rights or remedies against another party, unless such waiver is in writing and signed by the party to be charged. No such waiver shall be deemed a waiver of any subsequent breach or default of the same or similar nature or any other breach or default by such other party. All rights and remedies conferred herein shall be cumulative and in addition to all of the rights and remedies available to each party at law, equity or otherwise.

11.6 Severability. If any provision of this Agreement, or part thereof, is declared by a court of competent jurisdiction to be invalid, void or unenforceable, each and every other provision, or part thereof, shall nevertheless continue in full force and effect.

11.7 Notices. Any consent, notice or report required or permitted to be given or made under this Agreement by a party to the other party shall be in writing, delivered by any lawful means to such other party at its address indicated below, or to such other address as the addressee shall have last furnished in writing to the addressor and (except as otherwise provided in this Agreement) shall be effective upon receipt by the addressee.

If to AL:

For Overnight Delivery:
AL Pharma, Inc
7301 Broadway Extension, Suite 110
Oklahoma City, Oklahoma 73116
Attention: Warren Johnson

All Other Notices:
AL Pharma, Inc
P.O. Box 18815
Oklahoma City, Oklahoma 73154
Attention: Warren Johnson

If to SCS:	For Overnight Delivery: SCS National, LLC 2400 NW 55th Street Oklahoma City, Oklahoma 73112 Attention: Stan Cunningham All Other Notices: SCS National, LLC P.O. Box 54606 Oklahoma City, Oklahoma 73154 Attention: Stan Cunningham
If to DCP:	Dry Creek Project, LLC 5105 108th Ave, SE Noble, OK 73068 Attention: John Hofstetter
If to Eton:	Eton Pharmaceuticals, Inc. 21925 Field Pkwy, Suite 235 Deer Park, Illinois 60010 Attention: Chief Executive Officer

11.8 Further Assurances. The parties agree to execute such additional documents and perform such acts as are reasonably necessary to effectuate the intent of this Agreement.

11.9 Compliance With Laws. Each party agrees to comply with (and Eton shall ensure the compliance of CMO with) all Applicable Laws, including GDUFA or PDUFA, cGMPs and state licensing laws, in its performance under this Agreement.

11.10 Entire Agreement. This Agreement constitutes the entire agreement between the parties regarding the subject matter hereof, and supersedes all prior or contemporaneous understandings or agreements regarding the subject matter hereof, whether oral or written. This Agreement shall be modified or amended only by a writing specifically referring to this Agreement signed by each of Eton, AL, SCS, and DCP.

11.11 Force Majeure. Neither Party shall be liable for delays in its performance caused by events beyond its control, such as fires, floods, labor shortages, strikes, epidemics, computer virus, earthquakes, riots, acts of terror, acts of God, storms, acts of civil or military authority or similar occurrences, provided the affected party gives the other party written notice of such event within three (3) business days of its occurrence. Such notice shall state the estimated duration of such event and the cause thereof and the affected party shall use commercially reasonable efforts to work around such event beyond its control.

11.12 Headings and Construction. No rule of construction shall be applied to the disadvantage of a party because that party was responsible for the preparation of this Agreement or any part of this Agreement. The Article and Section headings in this Agreement are for convenient reference only, and shall be given no substantive or interpretive effect. With respect to all terms used in this Agreement, words used in the singular include the plural and words used in the plural include the singular. The word 'including' means including without limitation, and the words 'herein', 'hereby', 'hereto' and 'hereunder' refer to this Agreement as a whole. Unless the context otherwise requires, references found in this Agreement: (i) to Articles and Sections mean the Articles and Sections of this Agreement, as amended, supplemented and modified from time to time; (ii) to an agreement, instrument or other document means such agreement; (iii) to an agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time, to the extent provided by the provisions thereof and by this Agreement; and (iv) to a statute or a regulation mean such statute or regulation as amended from time to time.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, each party has caused a duly authorized representative to execute this Agreement as of the Effective Date.

AL PHARMA, INC

By: */s/ Warren Johnson*

Name: Warren Johnson

Title: Vice President

SCS NATIONAL, LLC

By: /s/ *Stanley W. Cunningham*

Name: Stanley W. Cunningham

Title: President

DRY CREEK PROJECT, LLC

By: */s/ John Hofstetter, D.Ph.*

Name: John Hofstetter, D.Ph.

Title: President

ETON PHARMACEUTICALS, INC.

By: */s/ Sean Brynjelsen*

Name: Sean Brynjelsen

Title: CEO

Exhibit 10.10

ETON PHARMACEUTICALS, INC.

2017 EQUITY INCENTIVE PLAN

ADOPTED BY THE BOARD OF DIRECTORS: MAY 1, 2017
APPROVED BY THE STOCKHOLDERS: MAY 1, 2017
TERMINATION DATE: APRIL 30, 2027

1. GENERAL.

(a) Eligible Stock Award Recipients. Employees, Directors and Consultants are eligible to receive Stock Awards.

(b) Available Stock Awards. The Plan provides for the grant of the following types of Stock Awards: (i) Incentive Stock Options, (ii) Nonstatutory Stock Options, (iii) Stock Appreciation Rights, (iv) Restricted Stock Awards, (v) Restricted Stock Unit Awards and (vi) Other Stock Awards.

(c) Purpose. The Plan, through the granting of Stock Awards, is intended to help the Company secure and retain the services of eligible award recipients, provide incentives for such persons to exert maximum efforts for the success of the Company and any Affiliate and provide a means by which the eligible recipients may benefit from increases in value of the Common Stock.

2. ADMINISTRATION.

(a) Administration by Board. The Board will administer the Plan. The Board may delegate administration of the Plan to a Committee or Committees, as provided in Section 2(c).

(b) Powers of Board. The Board will have the power, subject to, and within the limitations of, the express provisions of the Plan:

(i) To determine (A) who will be granted Stock Awards; (B) when and how each Stock Award will be granted; (C) what type of Stock Award will be granted; (D) the provisions of each Stock Award (which need not be identical), including when a person will be permitted to exercise or otherwise receive cash or Common Stock under the Stock Award; (E) the number of shares of Common Stock subject to a Stock Award; and (F) the Fair Market Value applicable to a Stock Award.

(ii) To construe and interpret the Plan and Stock Awards granted under it, and to establish, amend and revoke rules and regulations for administration of the Plan and Stock Awards. The Board, in the exercise of these powers, may correct any defect, omission or inconsistency in the Plan or in any Stock Award Agreement, in a manner and to the extent it will deem necessary or expedient to make the Plan or Stock Award fully effective.

(iii) To settle all controversies regarding the Plan and Stock Awards granted under it.

(iv) To accelerate, in whole or in part, the time at which a Stock Award may be exercised or vest (or at which cash or shares of Common Stock may be issued).

(v) To suspend or terminate the Plan at any time. Except as otherwise provided in the Plan or a Stock Award Agreement, suspension or termination of the Plan will not impair a Participant's rights under his or her then-outstanding Stock Award without his or her written consent except as provided in subsection (viii) below.

(vi) To amend the Plan in any respect the Board deems necessary or advisable, including, without limitation, by adopting amendments relating to Incentive Stock Options and certain nonqualified deferred compensation under Section 409A of the Code and/or to make the Plan or Stock Awards granted under the Plan compliant with the requirements for Incentive Stock Options or exempt from or compliant with the requirements for nonqualified deferred compensation under Section 409A of the Code, subject to the limitations, if any, of applicable law. However, if required by applicable law, and except as provided in Section 9(a) relating to Capitalization Adjustments, the Company will seek stockholder approval of any amendment of the Plan that (A) materially increases the number of shares of Common Stock available for issuance under the Plan, (B) materially expands the class of individuals eligible to receive Stock Awards under the Plan, (C) materially increases the benefits accruing to Participants under the Plan, (D) materially reduces the price at which shares of Common Stock may be issued or purchased under the Plan, (E) materially extends the term of the Plan, or (F) materially expands the types of Stock Awards available for issuance under the Plan. Except as provided in the Plan (including subsection (viii) below) or a Stock Award Agreement, no amendment of the Plan will impair a Participant's rights under an outstanding Stock Award unless (1) the Company requests the consent of the affected Participant, and (2) such Participant consents in writing.

(vii) To submit any amendment to the Plan for stockholder approval, including, but not limited to, amendments to the Plan intended to satisfy the requirements of Section 422 of the Code regarding Incentive Stock Options.

(viii) To approve forms of Stock Award Agreements for use under the Plan and to amend the terms of any one or more Stock Awards, including, but not limited to, amendments to provide terms more favorable to the Participant than previously provided in the Stock Award Agreement, subject to any specified limits in the Plan that are not subject to Board discretion; *provided however*, that a Participant's rights under any Stock Award will not be impaired by any such amendment unless (A) the Company requests the consent of the affected Participant, and (B) such Participant consents in writing. Notwithstanding the foregoing, (1) a Participant's rights will not be deemed to have been impaired by any such amendment if the Board, in its sole discretion, determines that the amendment, taken as a whole, does not materially impair the Participant's rights, and (2) subject to the limitations of applicable law, if any, the Board may amend the terms of any one or more Stock Awards without the affected Participant's consent (A) to maintain the qualified status of the Stock Award as an Incentive Stock Option under Section 422 of the Code; (B) to change the terms of an Incentive Stock Option, if such change results in impairment of the Stock Award solely because it impairs the qualified status of the Stock Award as an Incentive Stock Option under Section 422 of the Code; (C) to clarify the manner of exemption from, or to bring the Stock Award into compliance with, Section 409A of the Code; or (D) to comply with other applicable laws.

(ix) Generally, to exercise such powers and to perform such acts as the Board deems necessary or expedient to promote the best interests of the Company and that are not in conflict with the provisions of the Plan or Stock Awards.

(x) To adopt such procedures and sub-plans as are necessary or appropriate to permit participation in the Plan by Employees, Directors or Consultants who are foreign nationals or employed outside the United States (provided that Board approval will not be necessary for immaterial modifications to the Plan or any Stock Award Agreement that are required for compliance with the laws of the relevant foreign jurisdiction).

(xi) To effect, with the consent of any adversely affected Participant, (A) the reduction of the exercise, purchase or strike price of any outstanding Stock Award; (B) the cancellation of any outstanding Stock Award and the grant in substitution therefor of a new (1) Option or SAR, (2) Restricted Stock Award, (3) Restricted Stock Unit Award, (4) Other Stock Award, (5) cash and/or (6) other valuable consideration determined by the Board, in its sole discretion, with any such substituted award (x) covering the same or a different number of shares of Common Stock as the cancelled Stock Award and (y) granted under the Plan or another equity or compensatory plan of the Company; or (C) any other action that is treated as a repricing under generally accepted accounting principles.

(c) Delegation to Committee. The Board may delegate some or all of the administration of the Plan to a Committee or Committees. If administration of the Plan is delegated to a Committee, the Committee will have, in connection with the administration of the Plan, the powers theretofore possessed by the Board that have been delegated to the Committee, including the power to delegate to a subcommittee of the Committee any of the administrative powers the Committee is authorized to exercise (and references in this Plan to the Board will thereafter be to the Committee or subcommittee). Any delegation of administrative powers will be reflected in resolutions, not inconsistent with the provisions of the Plan, adopted from time to time by the Board or Committee (as applicable). The Committee may, at any time, abolish the subcommittee and/or revest in the Committee any powers delegated to the subcommittee. The Board may retain the authority to concurrently administer the Plan with the Committee and may, at any time, revest in the Board some or all of the powers previously delegated.

(d) Delegation to an Officer. The Board may delegate to one (1) or more Officers the authority to do one or both of the following: (i) designate Employees who are not Officers to be recipients of Options and SARs (and, to the extent permitted by applicable law, other Stock Awards) and, to the extent permitted by applicable law, the terms of such Stock Awards, and (ii) determine the number of shares of Common Stock to be subject to such Stock Awards granted to such Employees; provided, however, that the Board resolutions regarding such delegation will specify the total number of shares of Common Stock that may be subject to the Stock Awards granted by such Officer and that such Officer may not grant a Stock Award to himself or herself. Any such Stock Awards will be granted on the form of Stock Award Agreement most recently approved for use by the Committee or the Board, unless otherwise provided in the resolutions approving the delegation authority. The Board may not delegate authority to an Officer who is acting solely in the capacity of an Officer (and not also as a Director) to determine the Fair Market Value pursuant to Section 13(u) below.

(e) Effect of Board's Decision. All determinations, interpretations and constructions made by the Board in good faith will not be subject to review by any person and will be final, binding and conclusive on all persons.

3. SHARES SUBJECT TO THE PLAN.

(a) Share Reserve.

(i) Subject to Section 9(a) relating to Capitalization Adjustments, the aggregate number of shares of Common Stock that may be issued pursuant to Stock Awards from and after the Effective Date will not exceed five million (5,000,000) shares (the "***Share Reserve***").

(ii) For clarity, the Share Reserve in this Section 3(a) is a limitation on the number of shares of Common Stock that may be issued pursuant to the Plan. Accordingly, this Section 3(a) does not limit the granting of Stock Awards except as provided in Section 7(a).

(b) Reversion of Shares to the Share Reserve. If a Stock Award or any portion thereof (i) expires or otherwise terminates without all of the shares covered by such Stock Award having been issued or (ii) is settled in cash (*i.e.*, the Participant receives cash rather than stock), such expiration, termination or settlement will not reduce (or otherwise offset) the number of shares of Common Stock that may be available for issuance under the Plan. If any shares of Common Stock issued pursuant to a Stock Award are forfeited back to or repurchased or reacquired by the Company for any reason, including because of the failure to meet a contingency or condition required to vest such shares in the Participant, then the shares that are forfeited, reacquired or repurchased will revert to and again become available for issuance under the Plan. For the avoidance of doubt, any shares reacquired by the Company in satisfaction of tax withholding obligations on a Stock Award or as consideration for the exercise or purchase price of a Stock Award will again become available for issuance under the Plan.

(c) Incentive Stock Option Limit. Subject to the Share Reserve and Section 9(a) relating to Capitalization Adjustments, the aggregate maximum number of shares of Common Stock that may be issued pursuant to the exercise of Incentive Stock Options will be one million two hundred fifty thousand shares (1,250,000) shares of Common Stock.

(d) Source of Shares. The stock issuable under the Plan will be shares of authorized but unissued or reacquired Common Stock, including shares repurchased by the Company on the open market or otherwise.

4. ELIGIBILITY.

(a) Eligibility for Specific Stock Awards. Incentive Stock Options may be granted only to employees of the Company or a "parent corporation" or "subsidiary corporation" thereof (as such terms are defined in Sections 424(e) and 424(f) of the Code). Stock Awards other than Incentive Stock Options may be granted to Employees, Directors and Consultants; *provided, however*, that Stock Awards may not be granted to Employees, Directors and Consultants who are providing Continuous Service only to any "parent" of the Company, as such term is defined in Rule 405, unless (i) the stock underlying such Stock Awards is treated as "service recipient stock" under Section 409A of the Code (for example, because the Stock Awards are granted pursuant to a corporate transaction such as a spin off transaction), or (ii) the Company, in consultation with its legal counsel, has determined that such Stock Awards are otherwise exempt from or alternatively comply with the distribution requirements of Section 409A of the Code.

(b) Ten Percent Stockholders. A Ten Percent Stockholder will not be granted an Incentive Stock Option unless the exercise price of such Option is at least one hundred ten percent (110%) of the Fair Market Value on the date of grant and the Option is not exercisable after the expiration of five (5) years from the date of grant.

(c) Consultants. A Consultant will not be eligible for the grant of a Stock Award if, at the time of grant, either the offer or sale of the Company's securities to such Consultant is not exempt under Rule 701 because of the nature of the services that the Consultant is providing to the Company, because the Consultant is not a natural person, or because of any other provision of Rule 701, unless the Company determines that such grant need not comply with the requirements of Rule 701 and will satisfy another exemption under the Securities Act as well as comply with the securities laws of all other relevant jurisdictions.

5. PROVISIONS RELATING TO OPTIONS AND STOCK APPRECIATION RIGHTS.

Each Option or SAR will be in such form and will contain such terms and conditions as the Board deems appropriate. All Options will be separately designated Incentive Stock Options or Nonstatutory Stock Options at the time of grant, and, if certificates are issued, a separate certificate or certificates will be issued for shares of Common Stock purchased on exercise of each type of Option. If an Option is not specifically designated as an Incentive Stock Option, or if an Option is designated as an Incentive Stock Option but some portion or all of the Option fails to qualify as an Incentive Stock Option under the applicable rules, then the Option (or portion thereof) will be a Nonstatutory Stock Option. The provisions of separate Options or SARs need not be identical; *provided, however*, that each Stock Award Agreement will conform to (through incorporation of provisions hereof by reference in the applicable Stock Award Agreement or otherwise) the substance of each of the following provisions:

(a) Term. Subject to the provisions of Section 4(b) regarding Ten Percent Stockholders, no Option or SAR will be exercisable after the expiration of ten (10) years from the date of its grant or such shorter period specified in the Stock Award Agreement.

(b) Exercise Price. Subject to the provisions of Section 4(b) regarding Ten Percent Stockholders, the exercise or strike price of each Option or SAR will be not less than one hundred percent (100%) of the Fair Market Value of the Common Stock subject to the Option or SAR on the date the Stock Award is granted. Notwithstanding the foregoing, an Option or SAR may be granted with an exercise or strike price lower than one hundred percent (100%) of the Fair Market Value of the Common Stock subject to the Stock Award if such Stock Award is granted pursuant to an assumption of or substitution for another option or stock appreciation right pursuant to a Corporate Transaction and in a manner consistent with the provisions of Section 409A of the Code and, if applicable, Section 424(a) of the Code. Each SAR will be denominated in shares of Common Stock equivalents.

(c) Purchase Price for Options. The purchase price of Common Stock acquired pursuant to the exercise of an Option may be paid, to the extent permitted by applicable law and as determined by the Board in its sole discretion, by any combination of the methods of payment set forth below. The Board will have the authority to grant Options that do not permit all of the following methods of payment (or otherwise restrict the ability to use certain methods) and to grant Options that require the consent of the Company to use a particular method of payment. The permitted methods of payment are as follows:

(i) by cash, check, bank draft or money order payable to the Company;

(ii) pursuant to a program developed under Regulation T as promulgated by the Federal Reserve Board that, prior to the issuance of the stock subject to the Option, results in either the receipt of cash (or check) by the Company or the receipt of irrevocable instructions to pay the aggregate exercise price to the Company from the sales proceeds;

(iii) by delivery to the Company (either by actual delivery or attestation) of shares of Common Stock;

(iv) if an Option is a Nonstatutory Stock Option, by a "net exercise" arrangement pursuant to which the Company will reduce the number of shares of Common Stock issuable upon exercise by the largest whole number of shares with a Fair Market Value that does not exceed the aggregate exercise price; provided, however, that the Company will accept a cash or other payment from the Participant to the extent of any remaining balance of the aggregate exercise price not satisfied by such reduction in the number of whole shares to be issued. Shares of Common Stock will no longer be subject to an Option and will not be exercisable thereafter to the extent that (A) shares issuable upon exercise are used to pay the exercise price pursuant to the "net exercise," (B) shares are delivered to the Participant as a result of such exercise, and (C) shares are withheld to satisfy tax withholding obligations;

(v) according to a deferred payment or similar arrangement with the Optionholder; *provided, however*, that interest will compound at least annually and will be charged at the minimum rate of interest necessary to avoid (A) the imputation of interest income to the Company and compensation income to the Optionholder under any applicable provisions of the Code, and (B) the classification of the Option as a liability for financial accounting purposes; or

(vi) in any other form of legal consideration that may be acceptable to the Board and specified in the applicable Stock Award Agreement.

(d) Exercise and Payment of a SAR. To exercise any outstanding SAR, the Participant must provide written notice of exercise to the Company in compliance with the provisions of the Stock Award Agreement evidencing such SAR. The appreciation distribution payable on the exercise of a SAR will be not greater than an amount equal to the excess of (A) the aggregate Fair Market Value (on the date of the exercise of the SAR) of a number of shares of Common Stock equal to the number of Common Stock equivalents in which the Participant is vested under such SAR, and with respect to which the Participant is exercising the SAR on such date, over (B) the aggregate strike price of the number of Common Stock equivalents with respect to which the Participant is exercising the SAR on such date. The appreciation distribution may be paid in Common Stock, in cash, in any combination of the two or in any other form of consideration, as determined by the Board and contained in the Stock Award Agreement evidencing such SAR.

(e) Transferability of Options and SARs. The Board may, in its sole discretion, impose such limitations on the transferability of Options and SARs as the Board will determine. In the absence of such a determination by the Board to the contrary, the following restrictions on the transferability of Options and SARs will apply:

(i) Restrictions on Transfer. An Option or SAR will not be transferable except by will or by the laws of descent and distribution (and pursuant to subsections (ii) and (iii) below), and will be exercisable during the lifetime of the Participant only by the Participant. The Board may permit transfer of the Option or SAR in a manner that is not prohibited by applicable tax and securities laws. Except as explicitly provided herein, neither an Option nor a SAR may be transferred for consideration.

(ii) Domestic Relations Orders. Subject to the approval of the Board or a duly authorized Officer, an Option or SAR may be transferred pursuant to the terms of a domestic relations order, official marital settlement agreement or other divorce or separation instrument as permitted by Treasury Regulation 1.421-1(b)(2). If an Option is an Incentive Stock Option, such Option may be deemed to be a Nonstatutory Stock Option as a result of such transfer.

(iii) Beneficiary Designation. Subject to the approval of the Board or a duly authorized Officer, a Participant may, by delivering written notice to the Company, in a form approved by the Company (or the designated broker), designate a third party who, upon the death of the Participant, will thereafter be entitled to exercise the Option or SAR and receive the Common Stock or other consideration resulting from such exercise. In the absence of such a designation, upon the death of the Participant, the executor or administrator of the Participant's estate will be entitled to exercise the Option or SAR and receive the Common Stock or other consideration resulting from such exercise. However, the Company may prohibit designation of a beneficiary at any time, including due to any conclusion by the Company that such designation would be inconsistent with the provisions of applicable laws.

(f) Vesting Generally. The total number of shares of Common Stock subject to an Option or SAR may vest and become exercisable in periodic installments that may or may not be equal. The Option or SAR may be subject to such other terms and conditions on the time or times when it may or may not be exercised (which may be based on the satisfaction of performance goals or other criteria) as the Board may deem appropriate. The vesting provisions of individual Options or SARs may vary. The provisions of this Section 5(f) are subject to any Option or SAR provisions governing the minimum number of shares of Common Stock as to which an Option or SAR may be exercised.

(g) Termination of Continuous Service. Except as otherwise provided in the applicable Stock Award Agreement or other agreement between the Participant and the Company, if a Participant's Continuous Service terminates (other than for Cause and other than upon the Participant's death or Disability), the Participant may exercise his or her Option or SAR (to the extent that the Participant was entitled to exercise such Stock Award as of the date of termination of Continuous Service) within the period of time ending on the earlier of (i) the date three (3) months following the termination of the Participant's Continuous Service (or such longer or shorter period specified in the applicable Stock Award Agreement, which period will not be less than thirty (30) days if necessary to comply with applicable laws unless such termination is for Cause) and (ii) the expiration of the term of the Option or SAR as set forth in the Stock Award Agreement. If, after termination of Continuous Service, the Participant does not exercise his or her Option or SAR within the applicable time frame, the Option or SAR (as applicable) will terminate.

(h) Extension of Termination Date. Except as otherwise provided in the applicable Stock Award Agreement or other agreement between the Participant and the Company, if the exercise of an Option or SAR following the termination of the Participant's Continuous Service (other than for Cause and other than upon the Participant's death or Disability) would be prohibited at any time solely because the issuance of shares of Common Stock would violate the registration requirements under the Securities Act, then the Option or SAR will terminate on the earlier of (i) the expiration of a total period of time (that need not be consecutive) equal to the applicable post termination exercise period after the termination of the Participant's Continuous Service during which the exercise of the Option or SAR would not be in violation of such registration requirements, or (ii) the expiration of the term of the Option or SAR as set forth in the applicable Stock Award Agreement. In addition, unless otherwise provided in a Participant's Stock Award Agreement, if the sale of any Common Stock received upon exercise of an Option or SAR following the termination of the Participant's Continuous Service (other than for Cause) would violate the Company's insider trading policy, then the Option or SAR will terminate on the earlier of (i) the expiration of a period of time (that need not be consecutive) equal to the applicable post-termination exercise period after the termination of the Participant's Continuous Service during which the sale of the Common Stock received upon exercise of the Option or SAR would not be in violation of the Company's insider trading policy, or (ii) the expiration of the term of the Option or SAR as set forth in the applicable Stock Award Agreement.

(i) Disability of Participant. Except as otherwise provided in the applicable Stock Award Agreement or other agreement between the Participant and the Company, if a Participant's Continuous Service terminates as a result of the Participant's Disability, the Participant may exercise his or her Option or SAR (to the extent that the Participant was entitled to exercise such Option or SAR as of the date of termination of Continuous Service), but only within such period of time ending on the earlier of (i) the date twelve (12) months following such termination of Continuous Service (or such longer or shorter period specified in the Stock Award Agreement, which period will not be less than six (6) months if necessary to comply with applicable laws), and (ii) the expiration of the term of the Option or SAR as set forth in the Stock Award Agreement. If, after termination of Continuous Service, the Participant does not exercise his or her Option or SAR within the applicable time frame, the Option or SAR (as applicable) will terminate.

(j) Death of Participant. Except as otherwise provided in the applicable Stock Award Agreement or other agreement between the Participant and the Company, if (i) a Participant's Continuous Service terminates as a result of the Participant's death, or (ii) the Participant dies within the period (if any) specified in the Stock Award Agreement for exercisability after the termination of the Participant's Continuous Service (for a reason other than death), then the Option or SAR may be exercised (to the extent the Participant was entitled to exercise such Option or SAR as of the date of death) by the Participant's estate, by a person who acquired the right to exercise the Option or SAR by bequest or inheritance or by a person designated to exercise the Option or SAR upon the Participant's death, but only within the period ending on the earlier of (i) the date eighteen (18) months following the date of death (or such longer or shorter period specified in the Stock Award Agreement, which period will not be less than six (6) months if necessary to comply with applicable laws), and (ii) the expiration of the term of such Option or SAR as set forth in the Stock Award Agreement. If, after the Participant's death, the Option or SAR is not exercised within the applicable time frame, the Option or SAR (as applicable) will terminate.

(k) Termination for Cause. Except as explicitly provided otherwise in a Participant's Stock Award Agreement or other individual written agreement between the Company or any Affiliate and the Participant, if a Participant's Continuous Service is terminated for Cause, the Option or SAR will terminate immediately upon such Participant's termination of Continuous Service, and the Participant will be prohibited from exercising his or her Option or SAR from and after the time of such termination of Continuous Service.

(l) Non-Exempt Employees. If an Option or SAR is granted to an Employee who is a non-exempt employee for purposes of the Fair Labor Standards Act of 1938, as amended, the Option or SAR will not be first exercisable for any shares of Common Stock until at least six (6) months following the date of grant of the Option or SAR (although the Stock Award may vest prior to such date). Consistent with the provisions of the Worker Economic Opportunity Act, (i) if such non-exempt Employee dies or suffers a Disability, (ii) upon a Corporate Transaction in which such Option or SAR is not assumed, continued, or substituted, (iii) upon a Change in Control, or (iv) upon the Participant's retirement (as such term may be defined in the Participant's Stock Award Agreement, in another agreement between the Participant and the Company, or, if no such definition, in accordance with the Company's then current employment policies and guidelines), the vested portion of any Options and SARs may be exercised earlier than six (6) months following the date of grant. The foregoing provision is intended to operate so that any income derived by a non-exempt employee in connection with the exercise or vesting of an Option or SAR will be exempt from his or her regular rate of pay. To the extent permitted and/or required for compliance with the Worker Economic Opportunity Act to ensure that any income derived by a non-exempt employee in connection with the exercise, vesting or issuance of any shares under any other Stock Award will be exempt from the employee's regular rate of pay, the provisions of this Section 5(l) will apply to all Stock Awards and are hereby incorporated by reference into such Stock Award Agreements.

(m) Early Exercise of Options. An Option may, but need not, include a provision whereby the Optionholder may elect at any time before the Optionholder's Continuous Service terminates to exercise the Option as to any part or all of the shares of Common Stock subject to the Option prior to the full vesting of the Option. Subject to the "Repurchase Limitation" in Section 8(l), any unvested shares of Common Stock so purchased may be subject to a repurchase right in favor of the Company or to any other restriction the Board determines to be appropriate. Provided that the "Repurchase Limitation" in Section 8(l) is not violated, the Company will not be required to exercise its repurchase right until at least six (6) months (or such longer or shorter period of time required to avoid classification of the Option as a liability for financial accounting purposes) have elapsed following exercise of the Option unless the Board otherwise specifically provides in the Option Agreement.

(n) Right of Repurchase. Subject to the "Repurchase Limitation" in Section 8(l), the Option or SAR may include a provision whereby the Company may elect to repurchase all or any part of the vested shares of Common Stock acquired by the Participant pursuant to the exercise of the Option or SAR.

(o) Right of First Refusal. The Option or SAR may include a provision whereby the Company may elect to exercise a right of first refusal following receipt of notice from the Participant of the intent to transfer all or any part of the shares of Common Stock received upon the exercise of the Option or SAR. Such right of first refusal will be subject to the "Repurchase Limitation" in Section 8(l). Except as expressly provided in this Section 5(o) or in the Stock Award Agreement, such right of first refusal will otherwise comply with any applicable provisions of the bylaws of the Company.

6. Provisions of Stock Awards Other than Options and SARs.

(a) Restricted Stock Awards. Each Restricted Stock Award Agreement will be in such form and will contain such terms and conditions as the Board deems appropriate. To the extent consistent with the Company's bylaws, at the Board's election, shares of Common Stock underlying a Restricted Stock Award may be (i) held in book entry form subject to the Company's instructions until any restrictions relating to the Restricted Stock Award lapse; or (ii) evidenced by a certificate, which certificate will be held in such form and manner as determined by the Board. The terms and conditions of Restricted Stock Award Agreements may change from time to time, and the terms and conditions of separate Restricted Stock Award Agreements need not be identical. Each Restricted Stock Award Agreement will conform to (through incorporation of the provisions hereof by reference in the agreement or otherwise) the substance of each of the following provisions:

(i) **Consideration**. A Restricted Stock Award may be awarded in consideration for (A) cash, check, bank draft or money order payable to the Company, (B) past services to the Company or an Affiliate, or (C) any other form of legal consideration (including future services) that may be acceptable to the Board, in its sole discretion, and permissible under applicable law.

(ii) **Vesting**. Subject to the "Repurchase Limitation" in Section 8(l), shares of Common Stock awarded under the Restricted Stock Award Agreement may be subject to forfeiture to the Company in accordance with a vesting schedule to be determined by the Board.

(iii) **Termination of Participant's Continuous Service**. If a Participant's Continuous Service terminates, the Company may receive through a forfeiture condition or a repurchase right, any or all of the shares of Common Stock held by the Participant as of the date of termination of Continuous Service under the terms of the Restricted Stock Award Agreement.

(iv) **Transferability**. Rights to acquire shares of Common Stock under the Restricted Stock Award Agreement will be transferable by the Participant only upon such terms and conditions as are set forth in the Restricted Stock Award Agreement, as the Board will determine in its sole discretion, so long as Common Stock awarded under the Restricted Stock Award Agreement remains subject to the terms of the Restricted Stock Award Agreement.

(v) **Dividends.** A Restricted Stock Award Agreement may provide that any dividends paid on Restricted Stock will be subject to the same vesting and forfeiture restrictions as apply to the shares subject to the Restricted Stock Award to which they relate.

(b) **Restricted Stock Unit Awards.** Each Restricted Stock Unit Award Agreement will be in such form and will contain such terms and conditions as the Board deems appropriate. The terms and conditions of Restricted Stock Unit Award Agreements may change from time to time, and the terms and conditions of separate Restricted Stock Unit Award Agreements need not be identical. Each Restricted Stock Unit Award Agreement will conform to (through incorporation of the provisions hereof by reference in the Agreement or otherwise) the substance of each of the following provisions:

(i) **Consideration.** At the time of grant of a Restricted Stock Unit Award, the Board will determine the consideration, if any, to be paid by the Participant upon delivery of each share of Common Stock subject to the Restricted Stock Unit Award. The consideration to be paid (if any) by the Participant for each share of Common Stock subject to a Restricted Stock Unit Award may be paid in any form of legal consideration that may be acceptable to the Board, in its sole discretion, and permissible under applicable law.

(ii) **Vesting.** At the time of the grant of a Restricted Stock Unit Award, the Board may impose such restrictions on or conditions to the vesting of the Restricted Stock Unit Award as it, in its sole discretion, deems appropriate.

(iii) Payment. A Restricted Stock Unit Award may be settled by the delivery of shares of Common Stock, their cash equivalent, any combination thereof or in any other form of consideration, as determined by the Board and contained in the Restricted Stock Unit Award Agreement.

(iv) Additional Restrictions. At the time of the grant of a Restricted Stock Unit Award, the Board, as it deems appropriate, may impose such restrictions or conditions that delay the delivery of the shares of Common Stock (or their cash equivalent) subject to a Restricted Stock Unit Award to a time after the vesting of such Restricted Stock Unit Award.

(v) Dividend Equivalents. Dividend equivalents may be credited in respect of shares of Common Stock covered by a Restricted Stock Unit Award, as determined by the Board and contained in the Restricted Stock Unit Award Agreement. At the sole discretion of the Board, such dividend equivalents may be converted into additional shares of Common Stock covered by the Restricted Stock Unit Award in such manner as determined by the Board. Any additional shares covered by the Restricted Stock Unit Award credited by reason of such dividend equivalents will be subject to all of the same terms and conditions of the underlying Restricted Stock Unit Award Agreement to which they relate.

(vi) Termination of Participant's Continuous Service. Except as otherwise provided in the applicable Restricted Stock Unit Award Agreement, such portion of the Restricted Stock Unit Award that has not vested will be forfeited upon the Participant's termination of Continuous Service.

(vii) Compliance with Section 409A of the Code. Notwithstanding anything to the contrary set forth herein, any Restricted Stock Unit Award granted under the Plan that is not exempt from the requirements of Section 409A of the Code shall contain such provisions so that such Restricted Stock Unit Award will comply with the requirements of Section 409A of the Code. Such restrictions, if any, shall be determined by the Board and contained in the Restricted Stock Unit Award Agreement evidencing such Restricted Stock Unit Award. For example, such restrictions may include, without limitation, a requirement that any Common Stock that is to be issued in a year following the year in which the Restricted Stock Unit Award vests must be issued in accordance with a fixed pre-determined schedule.

(c) Other Stock Awards. Other forms of Stock Awards valued in whole or in part by reference to, or otherwise based on, Common Stock, including the appreciation in value thereof (e.g., options or stock rights with an exercise price or strike price less than one hundred percent (100%) of the Fair Market Value of the Common Stock at the time of grant) may be granted either alone or in addition to Stock Awards provided for under Section 5 and the preceding provisions of this Section 6. Subject to the provisions of the Plan, the Board will have sole and complete authority to determine the persons to whom and the time or times at which such Other Stock Awards will be granted, the number of shares of Common Stock (or the cash equivalent thereof) to be granted pursuant to such Other Stock Awards and all other terms and conditions of such Other Stock Awards.

7. COVENANTS OF THE COMPANY.

(a) Availability of Shares. The Company will keep available at all times the number of shares of Common Stock reasonably required to satisfy then-outstanding Stock Awards.

(b) Securities Law Compliance. The Company will seek to obtain from each regulatory commission or agency having jurisdiction over the Plan such authority as may be required to grant Stock Awards and to issue and sell shares of Common Stock upon exercise of the Stock Awards; *provided, however,* that this undertaking will not require the Company to register under the Securities Act the Plan, any Stock Award or any Common Stock issued or issuable pursuant to any such Stock Award. If, after reasonable efforts and at a reasonable cost, the Company is unable to obtain from any such regulatory commission or agency the authority that counsel for the Company deems necessary for the lawful issuance and sale of Common Stock under the Plan, the Company will be relieved from any liability for failure to issue and sell Common Stock upon exercise of such Stock Awards unless and until such authority is obtained. A Participant will not be eligible for the grant of a Stock Award or the subsequent issuance of cash or Common Stock pursuant to the Stock Award if such grant or issuance would be in violation of any applicable securities law.

(c) No Obligation to Notify or Minimize Taxes. The Company will have no duty or obligation to any Participant to advise such holder as to the time or manner of exercising such Stock Award. Furthermore, the Company will have no duty or obligation to warn or otherwise advise such holder of a pending termination or expiration of a Stock Award or a possible period in which the Stock Award may not be exercised. The Company has no duty or obligation to minimize the tax consequences of a Stock Award to the holder of such Stock Award.

8. MISCELLANEOUS.

(a) Use of Proceeds from Sales of Common Stock. Proceeds from the sale of shares of Common Stock pursuant to Stock Awards will constitute general funds of the Company.

(b) Corporate Action Constituting Grant of Stock Awards. Corporate action constituting a grant by the Company of a Stock Award to any Participant will be deemed completed as of the date of such corporate action, unless otherwise determined by the Board, regardless of when the instrument, certificate, or letter evidencing the Stock Award is communicated to, or actually received or accepted by, the Participant. In the event that the corporate records (e.g., Board consents, resolutions or minutes) documenting the corporate action constituting the grant contain terms (e.g., exercise price, vesting schedule or number of shares) that are inconsistent with those in the Stock Award Agreement as a result of a clerical error in the papering of the Stock Award Agreement, the corporate records will control and the Participant will have no legally binding right to the incorrect term in the Stock Award Agreement.

(c) Stockholder Rights. No Participant will be deemed to be the holder of, or to have any of the rights of a holder with respect to, any shares of Common Stock subject to a Stock Award unless and until (i) such Participant has satisfied all requirements for exercise of, or the issuance of shares of Common Stock under, the Stock Award pursuant to its terms, and (ii) the issuance of the Common Stock subject to the Stock Award has been entered into the books and records of the Company.

(d) No Employment or Other Service Rights. Nothing in the Plan, any Stock Award Agreement or any other instrument executed thereunder or in connection with any Stock Award granted pursuant thereto will confer upon any Participant any right to continue to serve the Company or an Affiliate in the capacity in effect at the time the Stock Award was granted or will affect the right of the Company or an Affiliate to terminate (i) the employment of an Employee with or without notice and with or without cause, (ii) the service of a Consultant pursuant to the terms of such Consultant's agreement with the Company or an Affiliate, or (iii) the service of a Director pursuant to the bylaws of the Company or an Affiliate, and any applicable provisions of the corporate law of the state in which the Company or the Affiliate is incorporated, as the case may be.

(e) Change in Time Commitment. In the event a Participant's regular level of time commitment in the performance of his or her services for the Company and any Affiliates is reduced (for example, and without limitation, if the Participant is an Employee of the Company and the Employee has a change in status from a full-time Employee to a part-time Employee) after the date of grant of any Stock Award to the Participant, the Board has the right in its sole discretion to (x) make a corresponding reduction in the number of shares subject to any portion of such Stock Award that is scheduled to vest or become payable after the date of such change in time commitment, and (y) in lieu of or in combination with such a reduction, extend the vesting or payment schedule applicable to such Stock Award. In the event of any such reduction, the Participant will have no right with respect to any portion of the Stock Award that is so reduced or extended.

(f) Incentive Stock Option Limitations. To the extent that the aggregate Fair Market Value (determined at the time of grant) of Common Stock with respect to which Incentive Stock Options are exercisable for the first time by any Optionholder during any calendar year (under all plans of the Company and any Affiliates) exceeds one hundred thousand dollars ($100,000) (or such other limit established in the Code) or otherwise does not comply with the rules governing Incentive Stock Options, the Options or portions thereof that exceed such limit (according to the order in which they were granted) or otherwise do not comply with such rules will be treated as Nonstatutory Stock Options, notwithstanding any contrary provision of the applicable Option Agreement(s).

(g) Investment Assurances. The Company may require a Participant, as a condition of exercising or acquiring Common Stock under any Stock Award, (i) to give written assurances satisfactory to the Company as to the Participant's knowledge and experience in financial and business matters and/or to employ a purchaser representative reasonably satisfactory to the Company who is knowledgeable and experienced in financial and business matters and that he or she is capable of evaluating, alone or together with the purchaser representative, the merits and risks of exercising the Stock Award; and (ii) to give written assurances satisfactory to the Company stating that the Participant is acquiring Common Stock subject to the Stock Award for the Participant's own account and not with any present intention of selling or otherwise distributing the Common Stock. The foregoing requirements, and any assurances given pursuant to such requirements, will be inoperative if (A) the issuance of the shares upon the exercise or acquisition of Common Stock under the Stock Award has been registered under a then currently effective registration statement under the Securities Act, or (B) as to any particular requirement, a determination is made by counsel for the Company that such requirement need not be met in the circumstances under the then applicable securities laws. The Company may, upon advice of counsel to the Company, place legends on stock certificates issued under the Plan as such counsel deems necessary or appropriate in order to comply with applicable securities laws, including, but not limited to, legends restricting the transfer of the Common Stock.

(h) Withholding Obligations. Unless prohibited by the terms of a Stock Award Agreement, the Company may, in its sole discretion, satisfy any federal, state or local tax withholding obligation relating to a Stock Award by any of the following means or by a combination of such means: (i) causing the Participant to tender a cash payment; (ii) withholding shares of Common Stock from the shares of Common Stock issued or otherwise issuable to the Participant in connection with the Stock Award; *provided*, *however*, that no shares of Common Stock are withheld with a value exceeding the minimum amount of tax required to be withheld by law (or such lesser amount as may be necessary to avoid classification of the Stock Award as a liability for financial accounting purposes); (iii) withholding cash from a Stock Award settled in cash; (iv) withholding payment from any amounts otherwise payable to the Participant; or (v) by such other method as may be set forth in the Stock Award Agreement.

(i) Electronic Delivery. Any reference herein to a "written" agreement or document will include any agreement or document delivered electronically or posted on the Company's intranet (or other shared electronic medium controlled by the Company to which the Participant has access).

(j) Deferrals. To the extent permitted by applicable law, the Board, in its sole discretion, may determine that the delivery of Common Stock or the payment of cash, upon the exercise, vesting or settlement of all or a portion of any Stock Award may be deferred and may establish programs and procedures for deferral elections to be made by Participants. Deferrals by Participants will be made in accordance with Section 409A of the Code. Consistent with Section 409A of the Code, the Board may provide for distributions while a Participant is still an employee or otherwise providing services to the Company. The Board is authorized to make deferrals of Stock Awards and determine when, and in what annual percentages, Participants may receive payments, including lump sum payments, following the Participant's termination of Continuous Service, and implement such other terms and conditions consistent with the provisions of the Plan and in accordance with applicable law.

(k) Compliance with Section 409A of the Code. To the extent that the Board determines that any Stock Award granted hereunder is subject to Section 409A of the Code, the Stock Award Agreement evidencing such Stock Award shall incorporate the terms and conditions necessary to avoid the consequences specified in Section 409A(a)(1) of the Code. To the extent applicable, the Plan and Stock Award Agreements shall be interpreted in accordance with Section 409A of the Code.

(l) Repurchase Limitation. The terms of any repurchase right will be specified in the Stock Award Agreement. The repurchase price for vested shares of Common Stock will be the Fair Market Value of the shares of Common Stock on the date of repurchase. The repurchase price for unvested shares of Common Stock will be the lower of (i) the Fair Market Value of the shares of Common Stock on the date of repurchase or (ii) their original purchase price. However, the Company will not exercise its repurchase right until at least six (6) months (or such longer or shorter period of time necessary to avoid classification of the Stock Award as a liability for financial accounting purposes) have elapsed following delivery of shares of Common Stock subject to the Stock Award, unless otherwise specifically provided by the Board.

9. Adjustments upon Changes in Common Stock; Other Corporate Events.

(a) Capitalization Adjustments. In the event of a Capitalization Adjustment, the Board will appropriately and proportionately adjust: (i) the class(es) and maximum number of securities subject to the Plan pursuant to Section 3(a), (ii) the class(es) and maximum number of securities that may be issued pursuant to the exercise of Incentive Stock Options pursuant to Section 3(c), and (iii) the class(es) and number of securities and price per share of stock subject to outstanding Stock Awards. The Board will make such adjustments, and its determination will be final, binding and conclusive.

(b) Dissolution. Except as otherwise provided in the Stock Award Agreement, in the event of a Dissolution of the Company, all outstanding Stock Awards (other than Stock Awards consisting of vested and outstanding shares of Common Stock not subject to a forfeiture condition or the Company's right of repurchase) will terminate immediately prior to the completion of such Dissolution, and the shares of Common Stock subject to the Company's repurchase rights or subject to a forfeiture condition may be repurchased or reacquired by the Company notwithstanding the fact that the holder of such Stock Award is providing Continuous Service, *provided, however,* that the Board may, in its sole discretion, cause some or all Stock Awards to become fully vested, exercisable and/or no longer subject to repurchase or forfeiture (to the extent such Stock Awards have not previously expired or terminated) before the Dissolution is completed but contingent on its completion.

(c) Corporate Transactions. The following provisions will apply to Stock Awards in the event of a Transaction unless otherwise provided in the Stock Award Agreement or any other written agreement between the Company or any Affiliate and the Participant or unless otherwise expressly provided by the Board at the time of grant of a Stock Award. In the event of a Transaction, then, notwithstanding any other provision of the Plan, the Board may take one or more of the following actions with respect to Stock Awards, contingent upon the closing or completion of the Transaction:

(i) arrange for the surviving corporation or acquiring corporation (or the surviving or acquiring corporation's parent company) to assume or continue the Stock Award or to substitute a similar stock award for the Stock Award (including, but not limited to, an award to acquire the same consideration paid to the stockholders of the Company pursuant to the Transaction);

(ii) arrange for the assignment of any reacquisition or repurchase rights held by the Company in respect of Common Stock issued pursuant to the Stock Award to the surviving corporation or acquiring corporation (or the surviving or acquiring corporation's parent company);

(iii) accelerate the vesting, in whole or in part, of the Stock Award (and, if applicable, the time at which the Stock Award may be exercised) to a date prior to the effective time of such Transaction as the Board determines (or, if the Board does not determine such a date, to the date that is five (5) days prior to the effective date of the Transaction), with such Stock Award terminating if not exercised (if applicable) at or prior to the effective time of the Transaction; provided, however, that the Board may require Participants to complete and deliver to the Company a notice of exercise before the effective date of a Transaction, which exercise is contingent upon the effectiveness of such Transaction;

(iv) arrange for the lapse, in whole or in part, of any reacquisition or repurchase rights held by the Company with respect to the Stock Award;

(v) cancel or arrange for the cancellation of the Stock Award, to the extent not vested or not exercised prior to the effective time of the Transaction, in exchange for such cash consideration, if any, as the Board, in its sole discretion, may consider appropriate; and

(vi) make a payment, in such form as may be determined by the Board equal to the excess, if any, of (A) the value of the property the Participant would have received upon the exercise of the Stock Award immediately prior to the effective time of the Transaction, over (B) any exercise price payable by such holder in connection with such exercise. For clarity, this payment may be zero ($0) if the value of the property is equal to or less than the exercise price. Payments under this provision may be delayed to the same extent that payment of consideration to the holders of the Company's Common Stock in connection with the Transaction is delayed as a result of escrows, earn outs, holdbacks or any other contingencies.

The Board need not take the same action or actions with respect to all Stock Awards or portions thereof or with respect to all Participants. The Board may take different actions with respect to the vested and unvested portions of a Stock Award.

(d) Change in Control. A Stock Award may be subject to additional acceleration of vesting and exercisability upon or after a Change in Control as may be provided in the Stock Award Agreement for such Stock Award or as may be provided in any other written agreement between the Company or any Affiliate and the Participant, but in the absence of such provision, no such acceleration will automatically occur.

10. Plan Term; Earlier Termination or Suspension of the Plan.

(a) Plan Term. The Board may suspend or terminate the Plan at any time. Unless terminated sooner by the Board, the Plan will automatically terminate on the day before the tenth (10th) anniversary of the earlier of (i) the date the Plan is adopted by the Board, or (ii) the date the Plan is approved by the stockholders of the Company. No Stock Awards may be granted under the Plan while the Plan is suspended or after it is terminated.

(b) No Impairment of Rights. Suspension or termination of the Plan will not impair rights and obligations under any Stock Award granted while the Plan is in effect except with the written consent of the affected Participant or as otherwise permitted in the Plan.

11. Effective Date of Plan.

This Plan will become effective on the Effective Date.

12. Choice of Law.

The laws of the State of Delaware will govern all questions concerning the construction, validity and interpretation of this Plan, without regard to that state's conflict of laws rules.

13. Definitions. As used in the Plan, the following definitions will apply to the capitalized terms indicated below:

(a) "***Affiliate***" means, at the time of determination, any "parent" or "majority-owned subsidiary" of the Company, as such terms are defined in Rule 405. The Board will have the authority to determine the time or times at which "parent" or "majority-owned subsidiary" status is determined within the foregoing definition.

(b) "***Board***" means the Board of Directors of the Company.

(c) "***Capitalization Adjustment***" means any change that is made in, or other events that occur with respect to, the Common Stock subject to the Plan or subject to any Stock Award after the Effective Date without the receipt of consideration by the Company through merger, consolidation, reorganization, recapitalization, reincorporation, stock dividend, dividend in property other than cash, large nonrecurring cash dividend, stock split, reverse stock split, liquidating dividend, combination of shares, exchange of shares, change in corporate structure, or any similar equity restructuring transaction, as that term is used in Statement of Financial Accounting Standards Board Accounting Standards Codification Topic 718 (or any successor thereto). Notwithstanding the foregoing, the conversion of any convertible securities of the Company will not be treated as a Capitalization Adjustment.

(d) "***Cause***" will have the meaning ascribed to such term in any written agreement between the Participant and the Company defining such term and, in the absence of such agreement, such term means, with respect to a Participant, the occurrence of any of the following events: (i) such Participant's commission of any felony or any crime involving fraud, dishonesty or moral turpitude under the laws of the United States or any state thereof; (ii) such Participant's attempted commission of, or participation in, a fraud or act of dishonesty against the Company; (iii) such Participant's intentional, material violation of any contract or agreement between the Participant and the Company or of any statutory duty owed to the Company; (iv) such Participant's unauthorized use or disclosure of the Company's confidential information or trade secrets; or (v) such Participant's gross misconduct. The determination that a termination of the Participant's Continuous Service is either for Cause or without Cause will be made by the Company, in its sole discretion. Any determination by the Company that the Continuous Service of a Participant was terminated with or without Cause for the purposes of outstanding Stock Awards held by such Participant will have no effect upon any determination of the rights or obligations of the Company or such Participant for any other purpose.

(e) "***Change in Control***" means the occurrence, in a single transaction or in a series of related transactions, of any one or more of the following events:

(i) any Exchange Act Person becomes the Owner, directly or indirectly, of securities of the Company representing more than fifty percent (50%) of the combined voting power of the Company's then outstanding securities other than by virtue of a merger, consolidation or similar transaction. Notwithstanding the foregoing, a Change in Control will not be deemed to occur (A) on account of the acquisition of securities of the Company directly from the Company, (B) on account of the acquisition of securities of the Company by an investor, any affiliate thereof or any other Exchange Act Person that acquires the Company's securities in a transaction or series of related transactions the primary purpose of which is to obtain financing for the Company through the issuance of equity securities or (C) solely because the level of Ownership held by any Exchange Act Person (the "***Subject Person***") exceeds the designated percentage threshold of the outstanding voting securities as a result of a repurchase or other acquisition of voting securities by the Company reducing the number of shares outstanding, provided that if a Change in Control would occur (but for the operation of this sentence) as a result of the acquisition of voting securities by the Company, and after such share acquisition, the Subject Person becomes the Owner of any additional voting securities that, assuming the repurchase or other acquisition had not occurred, increases the percentage of the then outstanding voting securities Owned by the Subject Person over the designated percentage threshold, then a Change in Control will be deemed to occur;

(ii) there is consummated a merger, consolidation or similar transaction involving (directly or indirectly) the Company and, immediately after the consummation of such merger, consolidation or similar transaction, the stockholders of the Company immediately prior thereto do not Own, directly or indirectly, either (A) outstanding voting securities representing more than fifty percent (50%) of the combined outstanding voting power of the surviving Entity in such merger, consolidation or similar transaction or (B) more than fifty percent (50%) of the combined outstanding voting power of the parent of the surviving Entity in such merger, consolidation or similar transaction, in each case in substantially the same proportions as their Ownership of the outstanding voting securities of the Company immediately prior to such transaction;

(iii) the stockholders of the Company approve or the Board approves a plan of complete dissolution or liquidation of the Company, or a complete dissolution or liquidation of the Company will otherwise occur, except for a liquidation into a parent corporation; or

(iv) there is consummated a sale, lease, exclusive license or other disposition of all or substantially all of the consolidated assets of the Company and its Subsidiaries, other than a sale, lease, license or other disposition of all or substantially all of the consolidated assets of the Company and its Subsidiaries to an Entity, more than fifty percent (50%) of the combined voting power of the voting securities of which are Owned by stockholders of the Company in substantially the same proportions as their Ownership of the outstanding voting securities of the Company immediately prior to such sale, lease, license or other disposition.

Notwithstanding the foregoing definition or any other provision of this Plan, (A) the term Change in Control will not include a sale of assets, merger or other transaction effected exclusively for the purpose of changing the domicile of the Company, and (B) the definition of Change in Control (or any analogous term) in an individual written agreement between the Company or any Affiliate and the Participant will supersede the foregoing definition with respect to Stock Awards subject to such agreement; *provided, however,* that if no definition of Change in Control or any analogous term is set forth in such an individual written agreement, the foregoing definition will apply.

(f) "***Code***" means the Internal Revenue Code of 1986, as amended, including any applicable regulations and guidance thereunder.

(g) "***Committee***" means a committee of one (1) or more Directors to whom authority has been delegated by the Board in accordance with Section 2(c).

(h) "***Common Stock***" means the common stock of the Company.

(i) "***Company***" means Eton Pharmaceuticals, Inc., a Delaware corporation.

(j) "***Consultant***" means any person, including an advisor, who is (i) engaged by the Company or an Affiliate to render consulting or advisory services and is compensated for such services, or (ii) serving as a member of the board of directors of an Affiliate and is compensated for such services. However, service solely as a Director, or payment of a fee for such service, will not cause a Director to be considered a "Consultant" for purposes of the Plan.

(k) "***Continuous Service***" means that the Participant's service with the Company or an Affiliate, whether as an Employee, Director or Consultant, is not interrupted or terminated. A change in the capacity in which the Participant renders service to the Company or an Affiliate as an Employee, Director or Consultant or a change in the Entity for which the Participant renders such service, provided that there is no interruption or termination of the Participant's service with the Company or an Affiliate, will not terminate a Participant's Continuous Service; *provided*, *however*, that if the Entity for which a Participant is rendering services ceases to qualify as an Affiliate, as determined by the Board in its sole discretion, such Participant's Continuous Service will be considered to have terminated on the date such Entity ceases to qualify as an Affiliate. For example, a change in status from an Employee of the Company to a Consultant of an Affiliate or to a Director will not constitute an interruption of Continuous Service. To the extent permitted by law, the Board or the chief executive officer of the Company, in that party's sole discretion, may determine whether Continuous Service will be considered interrupted in the case of (i) any leave of absence approved by the Board or chief executive officer, including sick leave, military leave or any other personal leave, or (ii) transfers between the Company, an Affiliate, or their successors. Notwithstanding the foregoing, a leave of absence will be treated as Continuous Service for purposes of vesting in a Stock Award only to such extent as may be provided in the Company's leave of absence policy, in the written terms of any leave of absence agreement or policy applicable to the Participant, or as otherwise required by law.

(l) "***Corporate Transaction***" means the consummation, in a single transaction or in a series of related transactions, of any one or more of the following events:

(i) a sale or other disposition of all or substantially all, as determined by the Board in its sole discretion, of the consolidated assets of the Company and its Subsidiaries;

(ii) a sale or other disposition of more than fifty percent (50%) of the outstanding securities of the Company;

(iii) a merger, consolidation or similar transaction following which the Company is not the surviving corporation; or

(iv) a merger, consolidation or similar transaction following which the Company is the surviving corporation but the shares of Common Stock outstanding immediately preceding the merger, consolidation or similar transaction are converted or exchanged by virtue of the merger, consolidation or similar transaction into other property, whether in the form of securities, cash or otherwise.

(m) "***Director***" means a member of the Board.

(n) "***Disability***" means, with respect to a Participant, the inability of such Participant to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than twelve (12) months as provided in Sections 22(e)(3) and 409A(a)(2)(c)(i) of the Code, and will be determined by the Board on the basis of such medical evidence as the Board deems warranted under the circumstances.

(o) "***Dissolution***" means when the Company, after having executed a certificate of dissolution with the State of Delaware, has completely wound up its affairs. Conversion of the Company into a Limited Liability Company will not be considered a "Dissolution" for purposes of the Plan.

(p) "***Effective Date***" means the effective date of this Plan, which is the earlier of (i) the date that this Plan is first approved by the Company's stockholders, and (ii) the date this Plan is adopted by the Board.

(q) "***Employee***" means any person employed by the Company or an Affiliate. However, service solely as a Director, or payment of a fee for such services, will not cause a Director to be considered an "Employee" for purposes of the Plan.

(r) "***Entity***" means a corporation, partnership, limited liability company or other entity.

(s) "***Exchange Act***" means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

(t) "***Exchange Act Person***" means any natural person, Entity or "group" (within the meaning of Section 13(d) or 14(d) of the Exchange Act), except that "Exchange Act Person" will not include (i) the Company or any Subsidiary of the Company, (ii) any employee benefit plan of the Company or any Subsidiary of the Company or any trustee or other fiduciary holding securities under an employee benefit plan of the Company or any Subsidiary of the Company, (iii) an underwriter temporarily holding securities pursuant to an offering of such securities, (iv) an Entity Owned, directly or indirectly, by the stockholders of the Company in substantially the same proportions as their Ownership of stock of the Company; or (v) any natural person, Entity or "group" (within the meaning of Section 13(d) or 14(d) of the Exchange Act) that, as of the Effective Date, is the Owner, directly or indirectly, of securities of the Company representing more than fifty percent (50%) of the combined voting power of the Company's then outstanding securities.

(u) "***Fair Market Value***" means, as of any date, the value of the Common Stock determined by the Board in compliance with Section 409A of the Code or, in the case of an Incentive Stock Option, in compliance with Section 422 of the Code.

(v) "***Incentive Stock Option***" means an option granted pursuant to Section 5 of the Plan that is intended to be, and that qualifies as, an "incentive stock option" within the meaning of Section 422 of the Code.

(w) "***Nonstatutory Stock Option***" means any option granted pursuant to Section 5 of the Plan that does not qualify as an Incentive Stock Option.

(x) "***Officer***" means any person designated by the Company as an officer.

(y) "***Option***" means an Incentive Stock Option or a Nonstatutory Stock Option to purchase shares of Common Stock granted pursuant to the Plan.

(z) "***Option Agreement***" means a written agreement between the Company and an Optionholder evidencing the terms and conditions of an Option grant. Each Option Agreement will be subject to the terms and conditions of the Plan.

(aa) "***Optionholder***" means a person to whom an Option is granted pursuant to the Plan or, if applicable, such other person who holds an outstanding Option.

(bb) "***Other Stock Award***" means an award based in whole or in part by reference to the Common Stock which is granted pursuant to the terms and conditions of Section 6(c).

(cc) "***Other Stock Award Agreement***" means a written agreement between the Company and a holder of an Other Stock Award evidencing the terms and conditions of an Other Stock Award grant. Each Other Stock Award Agreement will be subject to the terms and conditions of the Plan.

(dd) "***Own***," "***Owned***," "***Owner***," "***Ownership***" A person or Entity will be deemed to "Own," to have "Owned," to be the "Owner" of, or to have acquired "Ownership" of securities if such person or Entity, directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, has or shares voting power, which includes the power to vote or to direct the voting, with respect to such securities.

(ee) "***Participant***" means a person to whom a Stock Award is granted pursuant to the Plan or, if applicable, such other person who holds an outstanding Stock Award.

(ff) "***Plan***" means this Eton Pharmaceuticals, Inc. 2017 Equity Incentive Plan, as it may be amended from time to time.

(gg) "***Restricted Stock Award***" means an award of shares of Common Stock which is granted pursuant to the terms and conditions of Section 6(a).

(hh) "***Restricted Stock Award Agreement***" means a written agreement between the Company and a holder of a Restricted Stock Award evidencing the terms and conditions of a Restricted Stock Award grant. Each Restricted Stock Award Agreement will be subject to the terms and conditions of the Plan.

(ii) "***Restricted Stock Unit Award***" means a right to receive shares of Common Stock which is granted pursuant to the terms and conditions of Section 6(b).

(jj) "***Restricted Stock Unit Award Agreement***" means a written agreement between the Company and a holder of a Restricted Stock Unit Award evidencing the terms and conditions of a Restricted Stock Unit Award grant. Each Restricted Stock Unit Award Agreement will be subject to the terms and conditions of the Plan.

(kk) "***Rule 405***" means Rule 405 promulgated under the Securities Act.

(ll) "***Rule 701***" means Rule 701 promulgated under the Securities Act.

(mm) "***Securities Act***" means the Securities Act of 1933, as amended.

(nn) "***Stock Appreciation Right***" or "***SAR***" means a right to receive the appreciation on Common Stock that is granted pursuant to the terms and conditions of Section 5.

(oo) "***Stock Appreciation Right Agreement***" means a written agreement between the Company and a holder of a Stock Appreciation Right evidencing the terms and conditions of a Stock Appreciation Right grant. Each Stock Appreciation Right Agreement will be subject to the terms and conditions of the Plan.

(pp) "***Stock Award***" means any right to receive Common Stock granted under the Plan, including an Incentive Stock Option, a Nonstatutory Stock Option, a Restricted Stock Award, a Restricted Stock Unit Award, a Stock Appreciation Right or any Other Stock Award.

(qq) "***Stock Award Agreement***" means a written agreement between the Company and a Participant evidencing the terms and conditions of a Stock Award grant. Each Stock Award Agreement will be subject to the terms and conditions of the Plan.

(rr) "***Subsidiary***" means, with respect to the Company, (i) any corporation of which more than fifty percent (50%) of the outstanding capital stock having ordinary voting power to elect a majority of the board of directors of such corporation (irrespective of whether, at the time, stock of any other class or classes of such corporation will have or might have voting power by reason of the happening of any contingency) is at the time, directly or indirectly, Owned by the Company, and (ii) any partnership, limited liability company or other entity in which the Company has a direct or indirect interest (whether in the form of voting or participation in profits or capital contribution) of more than fifty percent (50%) .

(ss) "***Ten Percent Stockholder***" means a person who Owns (or is deemed to Own pursuant to Section 424(d) of the Code) stock possessing more than ten percent (10%) of the total combined voting power of all classes of stock of the Company or any Affiliate.

(tt) "***Transaction***" means a Corporate Transaction or a Change in Control.

Exhibit 10.11

CONSULTING AGREEMENT

THIS CONSULTING AGREEMENT (the "Agreement") is effective as the last date provided for on the signature page and is entered into by and between Mark L. Baum, an individual ("Consultant") and Eton Pharmaceuticals, Inc., a Delaware corporation with its principal address located at 12264 El Camino Real, Suite 350, San Diego, CA 92130 (the "Company").

WHEREAS, the Company wishes to retain Consultant as an advisor to the Company; and

WHEREAS, Consultant wishes to provide advisory services to the Company as set forth below.

NOW THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Consultant and the Company agree, intending to be legally bound, as follows:

1. Consulting Services.

1.1. Consultant will provide consulting services to the Company during the Term (as further defined below) of this Agreement. The consulting services ("Services") are set forth in the Statement of Work ("SOW") that is attached hereto as ***Appendix*** *A* and made a part hereof, as it may be amended from time to time by the parties hereto. Consultant shall perform all Services in compliance with all applicable laws.

2. Effective Date; Term and Termination.

2.1. This Agreement shall be effective on the later of the dates that it is executed by the Company and Consultant (the "Effective Date") and shall terminate as of the date Services are completed (the "Term" as further defined and outlined in ***Appendix*** A) unless: (i) this Agreement is sooner terminated as provided in Section 2.2 below; or (ii) the parties agree in writing to extend the Tern for a mutually agreed upon period.

2.2. The Agreement and the Services provided by Consultant may be terminated by either Consultant or the Company, at any time and for any reason, upon five (5) days prior written notice of termination.

3. Consulting Fees.

3.1. In consideration of the Services provided hereunder, the Company shall provide Consultant the compensation as set forth in the applicable SOW ("Consulting Fee").

3.2. Consultant shall be responsible for all expenses incurred in association with performance of the Services, unless pre-approved by the Company in writing in advance.

4. Confidentiality. Consultant acknowledges that Consultant will receive confidential and proprietary information from, on behalf of, or at the direction of, the Company in connection with, and during the course of providing, the Services, including but not limited to technical, clinical, marketing, commercial and/or legal information, data, reports, drawings, models, designs, prototypes, biological material, specimens, chemical compounds, formulas, manufacturing or other processes, software, specifications, patent applications, marketing strategies, customer information and customer lists ("Confidential Information"). All Confidential Information is and shall at all times remain the exclusive property of the Company. Consultant agrees:

4.1. to hold the Confidential Information in strict confidence and not to disclose or make available any Confidential Information to any third party whatsoever, without the prior written consent of the Company;

4.2. to use the Confidential Information only for the benefit of the Company and only for the purpose of providing the Services;

4.3. to take at least the same degree of care to prevent disclosure of Confidential Information as Consultant takes to preserve and safeguard Consultant's own confidential and proprietary information, but in any event, no less than a reasonable degree of care;

4.4. not to make copies of the Confidential Information except to the extent that the copies are reasonably necessary for providing the Services;

4.5. to return or destroy (as the Company may direct) any Confidential Information held by Consultant immediately upon termination of the Term of this Agreement pursuant to Section 2 above and provide the Company with a letter certifying that all such Confidential Information has been returned or destroyed as directed;

4.6. that Confidential Information excludes information that:

(a) as evidenced by Consultant's written records, was lawfully known to Consultant prior to its communication by, on behalf of, or at the direction of the Company and was not communicated to Consultant subject to any restrictions on disclosure or use; or

(b) as evidenced by Consultant's written records, is independently developed by Consultant without use or knowledge of the Confidential Information; or

(c) is or becomes a part of the public domain other than by a breach of this Agreement by Consultant;

(d) becomes known to Consultant by the action of a third party not in breach of any obligation of confidence; or

(e) is required to be disclosed or made available by Consultant to a third party pursuant to any applicable law, governmental regulation, or decision of any court or tribunal of competent jurisdiction, so long as Consultant takes reasonable steps, in light of the circumstances, to give the Company sufficient prior notice in order to contest such law, governmental regulation, or decision;

4.7. that no representation or warranty, express or implied, is made by the Company as to the accuracy, completeness or reasonableness of any Confidential Information and that neither the Company will have any liability to Consultant as a result of Consultant's possession or use of the Confidential information; and

4.8. that money damages may not be sufficient remedy for any breach of this Section and that the Company will be entitled to seek specific performance and injunctive or equitable relief as a remedy for any such breach.

4.9. Nothing in this Section is intended to limit any remedy of the Company under the California Uniform Trade Secrets Act (California Civil Code Section 3426), or otherwise available. under law.

4.10. Notwithstanding the other provisions of this Agreement, pursuant to 18 U.S.C. Section 1833(b), Consultant shall not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret that is made in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney, and solely for the purpose of reporting or investigating a suspected violation of law; or is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal.

5. Independent Contractor. The relationship of Consultant to the Company shall be that of an independent contractor rendering professional services. Consultant is not an employee of the Company. Nothing contained in this Agreement shall be deemed to create a relationship of employer and employee or principal and agent between the Company and Consultant. In no circumstance, shall Consultant look to the Company as Consultant's employer, partner, agent or principal. Consultant is not entitled to and will be excluded from participating in any of Company's fringe benefit plans or programs as a result of the performance of the Services under this Agreement, including, but not limited to, health, sickness, accident or dental coverage, life insurance, disability benefits, accidental death and dismemberment coverage, unemployment insurance coverage, workers' compensation coverage, and pension or 401(k) benefit(s) provided by Company to its employees (and Consultant waives the right to receive any such benefits). Consultant agrees, as an independent contractor, that Consultant is not entitled to unemployment benefits in the event this Agreement terminates, or workers' compensation benefits in the event that Consultant is injured in any manner or becomes ill while performing the work under this Agreement. Consultant is solely responsible for all tax returns, payments, or reports required to be filed with or made to any federal, state or local tax authority with respect to Consultant's performance of Services and receipt of consideration (including Consulting Fees) under this Agreement. Consultant is not authorized to make any representation, contract or commitment on behalf of the Company unless specifically requested or authorized in writing to do so by an executive officer or Board member of the Company.

6. Waiver. No waiver of this Agreement or any of its provisions shall be binding upon a party unless in writing and signed by each party. The waiver by either party of a breach or violation of any provision of this Agreement shall not constitute or be construed as a waiver of any subsequent breach or violation of that provision or as a waiver of any breach or violation of any other provision.

7. Severability. If any provision of this Agreement is held by a court of competent jurisdiction to .be invalid, illegal or unenforceable, the remaining provisions of this Agreement shall be unimpaired, and the invalid, illegal or unenforceable provision shall be replaced by a mutually acceptable provision, which, being valid, legal and enforceable, comes closest to the intention of the parties underlying the invalid, illegal or unenforceable provision.

8. Survival. The provisions of Sections 2.2, 3, 4, 6-11 and any other obligation under this Agreement which is to survive or be performed after termination of this Agreement, regardless of the cause therefor, shall survive any termination or expiration of this Agreement.

9. Notices. Any notice or other communication required or permitted to be made or given under this Agreement to either party shall be in writing and shall be sufficiently given if (i) hand delivered, (ii) sent by overnight guaranteed delivery service, such as Federal Express or UPS; or (iii) sent by facsimile transmission or electronic mail during addressee's norm.al business hours, with a duplicate copy sent by overnight delivery or certified or registered mail, addressed as either party may from time to time designate to the other by written notice. Any such notice or other communication shall be deemed to be given as of the date it is received by the addressee.

10. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California, excluding the choice of law rules, and the parties hereby agree to submit to the jurisdiction and venue of the State and Federal courts of the State of California, and agree that the State and Federal courts of the State of California shall be the exclusive forum for the resolution of all disputes related to or arising out of this Agreement.

11. Entire Agreement; Amendments. This Agreement, including any applicable SOW, represents the entire agreement between the parties in relation to the subject matter contained herein and supersedes all previous other agreements and representations, whether oral or written. This Agreement may be modified only if such modification is in writing and signed by a duly authorized representative of each party.

******SIGNATURE PAGE FOLLOWS******

SIGNATURE PAGE

IN WITNESS WHEREOF, the parties hereto have executed this Consulting Agreement as of the date first above written.

CONSULTANT:

MARK L. BAUM

By: */s/ Mark L. Baum*
Name: Mark L. Baum
An individual

Date: 5/1/17

COMPANY:

ETON PHARMACEUTICALS, INC.

By: */s/ Andrew R. Boll*
Name: Andrew R. Boll
Title: Executive Director

Date: 5/1/17

Appendix A

Statement of Work under Consulting Agreement
by and between
Mark L. Baum and Eton Pharmaceuticals, Inc.

Services:

Consultant shall provide senior management advisory services to the Company relating to its establishment, financing activities, patent applications and other related services as may be requested from time to time by the Company.

Compensation:

Upon or shortly following commencement of Consultant's Services to the Company, the Company shall grant to Consultant 730,000 shares (the "Shares") of the Company's restricted common stock, par value $0.001 ("Common Stock") under the terms of the Company's 2017 Equity Incentive Plan (the "Plan") and a Restricted Stock Award Grant Notice and Agreement thereunder to be provided to Consultant by the Company (collectively with the Plan, the "Restricted Stock Documents").

The Shares shall vest upon the earlier of:

(1) a Change in Control (as defined in the Plan);
(2) the date of any underwriting agreement between the Company and the underwriter(s) managing an initial public offering of the Company's common stock, pursuant to which the common stock is priced for initial public offering (the "IPO");
(3) the date of closing of any Company financing in excess of $10,000,000 ("Subsequent Financing"); or
(4) immediately prior to the one year anniversary of the date of grant of the Shares (as indicated in the Restricted Stock Documents) (the "Grant Date").

and in any case of (1), (2), (3) and (4), which occurs following the Bridge Financing (as defined below), subject to Consultant's Continuous Service (as defined in the Plan) through such vesting date; *provided, however,* in the event the Consultant's Continuous Service is terminated by the Company (other than for Cause (as defined in the Plan)) prior to the completion of the Term (as outlined below), the Shares shall vest immediately upon such termination. The "Bridge Financing" shall mean closing of a bona-fide equity financing with third party investors resulting in cash gross proceeds to the Company of at least $10,000,000 which occurs within one year of the Grant Date.

Consultant understands that that the receipt of the Shares hereunder will trigger tax consequences to Consultant for which Consultant will be solely responsible and that the Shares have not been registered under the Securities Act of 1933, as amended, or any applicable state securities law. Consultant must execute the Restricted Stock Documents as a condition to receipt of the Shares hereunder.

Term:

Consultant commenced providing Services to the Company on April 26, 2017 and shall provide the Services through the earlier of (i) one year from the Grant Date, (ii) a Change in Control, (iii) the IPO, (iv) a Subsequent Financing or (v) such earlier date as the Services are terminated by the Company or Consultant in accordance with this Agreement (the "Term").

Exhibit 10.12

ETON PHARMACEUTICALS, INC.
12264 EL CAMINO REAL, SUITE 350
SAN DIEGO, CA 92130

May 14, 2017

Sean Brynjelsen
516 S. Cook St.
Barrington, IL 60010

Re: Employment Terms

Dear Sean:

On behalf of Eton Pharmaceuticals, Inc. (the "Company"), I am pleased to offer you employment in the position of Chief Executive Officer of the Company, on the terms set forth in this offer letter agreement (the "Agreement").

1. Effectiveness.

(a) Your employment with the Company and all of the terms of this Agreement shall become effective one week following closing of a bona-fide equity financing with third party investors resulting in cash gross proceeds to the Company of at least $10,000,000 within the ninety (90) days following the date listed above (the "Employment Effective Date"). In the event that such closing does not occur within the designed time frame, this your employment with the Company and this Agreement shall be null and void *ab initio* and neither party hereto shall have any liability or obligation hereunder.

(b) Prior to the Employment Effective Date, you will provide part-time consulting services to help secure a financing transaction meeting the criteria above, as requested by the Company from time to time and as permitted by the terms of your current employment (the "Consulting Services"). As compensation for your Consulting Services, the Company shall, subject to your execution below and commencement of Consulting Services, grant you a restricted stock award covering 1,000,000 shares of the Company's common stock (the "Stock Award"). The Stock Award shall vest 25% on the one year anniversary of its grant date and in equal monthly installments thereafter ending on the two-year anniversary of its grant date, subject to your continued service to the Company (which shall include your consulting and employment services) and vesting acceleration as set forth in Section 9(b) below. The Stock Award is subject to approval by the Company's Board of Directors (the "Board") and the terms of a Restricted Stock Award Grant Notice and Agreement that will be provided to you by the Company. You understand that the grant of the Stock Award will trigger taxable income to you, and you agree to timely file a Section 83(b) election with the Internal Revenue Service and provide documentation of such election to the Company. Either you or the Company may terminate the Consulting Services at any time upon advance written notice to the other party. Your legitimate and documented business expenses incurred in performing the Consulting Services will be reimbursed by the Company as provided under its business expense reimbursement policies. You understand that you shall not be an employee of the Company prior to the Employment Effective Date, and shall not be entitled to any compensation or benefits for performing the Consulting Services other than as set forth in this Section l(b).

2. Employment Position; Duties. Upon the Employment Effective Date, you will be employed in the position of Chief Executive Officer of the Company. In this position, you will report to the Board, and you will have those duties and responsibilities as customary for this position and as may be directed by the Board. Your commencement of employment shall begin on or around the Employment Agreement Effective Date (such actual date, the "Employment Start Date"). Your work duties may include work for, or on behalf of, Affiliates of the Company (as defined below). You will primarily work from your current location in Chicago, Illinois, although you understand that reasonable travel shall be required in the performance of your position with the Company. During your employment, you will devote your full-time best efforts to the business of the Company and its Affiliates.

3. Employee Base Salary; Employee Benefits and Business Expenses.

(a) Base Salary. Your base salary will be paid at the annual rate of $325,000, less required payroll deductions and tax withholdings, paid on the Company's normal payroll schedule (which shall initially be bi-weekly). As an exempt salaried employee, you will be required to work the Company's normal business hours, and such additional time as appropriate for your work assignments and position. You will not be eligible for extra payment under the overtime laws. Your base salary may otherwise be adjusted from time to time at the Company's discretion. Within six (6) months following the closing of the Company's first firm-commitment underwritten public offering of its equity securities pursuant to a registration statement filed with the Securities and Exchange Commission ("IPO"), the Board or the Compensation Committee of the Board (the "Compensation Committee") will review your base salary against market practices of public peer companies, with the assistance of an outside compensation consultant, and shall increase your base salary, if necessary, according to such market practices, as determined appropriate by the Board or the Compensation Committee in its discretion.

(b) Employee Benefits. As a regular full-time employee, you will be eligible to participate in the Company's standard employee benefits (pursuant to the terms and conditions of the benefit plans and applicable policies), as they may be terminated or changed from time to time within the Company's discretion.

(c) Business Expenses. Your legitimate and documented business expenses will be reimbursed by the Company as provided under its business expense reimbursement policies.

4. Annual Performance Bonus. In addition to base salary, you will be eligible to earn discretionary incentive compensation at a total annual target amount of forty-five percent (45%) of your base salary in effect during the bonus year ("Performance Bonus"), based on the achievement of corporate and individual performance targets to be determined and approved by the Board or the Compensation Committee thereof. The Performance Bonus, if earned, will be paid on an annual basis, less required payroll deductions and tax withholdings, after the close of the fiscal year and after determination by the Board (or the Compensation Committee thereof) of the level of achievement of the applicable performance targets and metrics and the level of the Performance Bonus amount (if any). No Performance Bonus amount is guaranteed and, in addition to the other conditions for earning such Performance Bonus, you must remain an employee in good standing of the Company on the Performance Bonus payment date in order to earn any Performance Bonus. You will be eligible for a Performance Bonus for 2017, pro-rated based on when the Employment Start Date occurs.

5. Equity Awards. In addition to the Stock Award, you will be eligible to receive additional equity award grants under the Company's equity incentive plans from time to time in the discretion of the board or its Compensation Commitee and in accordance with the terms and conditions of such plans.

6. Compliance With Proprietary Information Agreement and Company Policies. As a condition of employment, you shall sign and comply with the Proprietary Information, Inventions, Non- Solicitation and Non-Competition Agreement (the "Proprietary Information Agreement") which is attached as *Exhibit A.* In addition, you are required to abide by the Company's policies and procedures, as may be modified from time to time within the Company's discretion.

7. Protection of Third Party Information and Outside Activities.

(a) Third Party Information. In your work for the Company or its Affiliates (including the Consulting Services), you will be expected not to make any unauthorized use or disclosure of any confidential information or materials, including trade secrets, of any former employer or other third party; and not to violate any lawful agreement that you may have with any third party. By signing this Agreement, you represent that you are able to perform your job duties within these guidelines, and you are not in unauthorized possession or control of any confidential documents, information, or other property of any former employer or third party. In addition, you represent that you have disclosed to the Company in writing any agreement you may have with any third party (e.g., a former employer) which may limit your ability to perform your duties to the Company or its Affiliates, or which could present a conflict of interest with the Company or its Affiliates, including but not limited to disclosure (and a copy) of any contractual restrictions on solicitations or competitive activities, and are not bound by any such restrictions which would restrict or prevent you from performing the Consulting Services or accepting employment with the Company.

(b) Outside Activities. During your employment with the Company, you may engage in civic and not-for-profit activities, act as a trustee for estate planning purposes and engage in, and manage, personal investments, so long as such activities do not interfere with the performance of your duties hereunder or present a conflict of interest with the Company or its Affiliates. Subject to the restrictions set forth herein, and only with prior written disclosure to and consent of the Board, you may engage in other types of business or public activities. Your service on any board of directors (or similar) of an outside entity or organization shall be subject to prior written approval of the Board, except for your current service on the board of directors of Mobius Therapeutics LLC, which the Board hereby acknowledges and approves. The Board may rescind approval of outside services, if the Board determines, in its sole discretion, that such activities compromise or threaten to compromise the Company's or its Affiliates' business interests or conflict with your duties to the Company or its Affiliates.

(c) Non-Competition. During your employment with the Company, you will not, without the express written consent of the Board, directly or indirectly serve as an officer, director, stockholder, employee, partner, proprietor, investor, joint venture, associate, representative or consultant of any person or entity engaged in, or planning or preparing to engage in, business activity competitive with any line of business engaged in (or, to your knowledge, immediately planned to be engaged in) by the Company or its Affiliates; provided, however, that you may purchase or otherwise acquire up to (but not more than) five percent (5%) of any class of securities of any enterprise (without participating in the activities of such enterprise) if such securities are listed on any national or regional securities exchange. In addition, you will be subject to certain restrictions (including restrictions continuing after your employment ends) under the terms of your Proprietary Information Agreement.

8. At Will Employment Relationship. Your employment relationship the Company is at-will. Accordingly, you may terminate your employment with the Company at any time and for any reason whatsoever simply by notifying the Company, and the Company may terminate your employment at any time with or without Cause or prior notice. In addition, the Company retains the discretion to modify your other employment terms from time to time, including but not limited to your position, duties, authority, reporting relationship, work location, compensation, and benefits.

9. Severance Benefits.

(a) Severance Benefits for Covered Termination. If beginning on or after the six (6) month anniversary of the Employment Start Date, (A) your employment is terminated due to (1) a termination by the Company without Cause (other than as a result of your death or Disability) or (2) your resignation for Good Reason (collectively, a "Covered Termination"), (B) you satisfy the Release Requirement and (C) you continue to abide by the terms of your Proprietary Information Agreement, then you will receive the "Severance Benefits" as set forth in this Section 9(a) as your sole severance benefits, and you will not be eligible for severance benefits under any other policy, plan or agreement except to the extent required by law. Specifically, you will receive:

(i) Severance Payments. Severance pay in the form of continuation of your base salary at the time of your Covered Termination (but ignoring any decrease that forms the basis of your resignation for Good Reason, if applicable) for a period of twelve (12) months, subject to required payroll deductions and tax withholdings (the "Severance Payments"). Subject to Section 10, the Severance Payments shall be made on the Company's regular payroll schedule in effect following your termination date, provided, however, that any such payments that are otherwise scheduled to be made prior to the Release Effective Date (as defined below) shall instead accrue and be made on the first regular payroll date following the Release Effective Date; and

(ii) Health Care Continuation Coverage Payments.

(A) COBRA Premiums. If you timely elect continued coverage under COBRA, the Company will pay your COBRA premiums to continue your coverage (including coverage for your eligible dependents, if applicable) ("COBRA Premiums") through the period starting on the termination date and ending twelve (12) months after the termination date (the "COBRA Premium Period"); provided, however, that the Company's provision of such COBRA Premium benefits will immediately cease if during the COBRA Premium Period you become eligible for group health insurance coverage through a new employer or you cease to be eligible for COBRA continuation coverage for any reason, including plan termination. In the event you become covered under another employer's group health plan or otherwise cease to be eligible for COBRA during the COBRA Premium Period; you must immediately notify the Company of such event. For purposes of this Section, references to COBRA premiums shall not include any amounts payable you under a Section 125 health care reimbursement plan under the Internal Revenue Code of 1986, as amended (the "Code").

(B) Special Cash Payments in Lieu of COBRA Premiums. Notwithstanding the foregoing, if the Company determines, in its sole discretion, that it cannot pay the COBRA Premiums without potentially incurring financial costs or penalties under applicable law (including, without limitation, Section 2716 of the Public Health Service Act), regardless of whether you or your dependents elect or are eligible for COBRA coverage, the Company instead shall pay to you, on the first day of each calendar month following the time the Company determines it cannot pay such COBRA Premiums, a fully taxable cash payment equal to the applicable COBRA premiums for that month (including the amount of COBRA premiums for your eligible dependents), subject to applicable tax withholdings (such amount, the "Special Cash Payment"), for the remainder of the COBRA Premium Period. You may, but are not obligated to, use such Special Cash Payments toward the cost of COBRA premiums.

(b) Severance Benefits for Covered Termination during Change in Control Period. Notwithstanding the foregoing, if your Covered Termination occurs during the period commencing one (1) month prior to the Closing of a Change in Control and ending twelve (12) months following the Closing of a Change in Control, in addition to the Severance Benefits described in Section 9(a), you shall also be eligible to receive the following, subject to satisfaction of the Release Requirement:

(i) Equity Acceleration. The vesting and exercisability of each outstanding unvested stock option and other stock award, as applicable, that you hold covering Company common stock (each, an "Equity Award") shall be accelerated in full and any reacquisition or repurchase rights held by the Company in respect of common stock issued pursuant to any Equity Award granted to you shall lapse in full. For purposes of determining the number of shares that will vest pursuant to the foregoing provision with respect to any Equity Award that vests based on performance goals for which the performance period has not ended and that has multiple vesting levels depending upon the level of performance, vesting acceleration with respect to any ongoing performance period(s) shall occur with respect to the number of shares subject to the award as if the applicable performance criteria had been attained at a 100% level or, if greater, based on actual performance as of your Covered Termination. If necessary to give effect to this Section 9(b)(i), if your Covered Termination occurs prior to a Change in Control, all of the Equity Awards you hold as of immediately prior to your Covered Termination shall remain outstanding after your Covered Termination for at least until the earlier of (i) thirty (30) days after your Covered Termination or (ii) the Closing, if sooner. Notwithstanding anything to the contrary set forth herein, your Equity Awards shall remain subject to the terms of the applicable Company plan and award documents under which such Equity Award was granted, including any provision for earlier termination of such Equity Awards.

(c) Release Requirement. To be eligible for the Severance Benefits pursuant to Sections 9(a) and 9(b) above, you must satisfy the following release requirement (the "Release Requirement"): return to the Company a signed and dated general release of all known and unknown claims, in such form as provided by the Company (the "Release and Waiver") within the applicable deadline set forth therein, and permit the Release and Waiver to become effective and irrevocable in accordance with its terms, which must occur no later than sixty (60) days following your termination date (such effective date of the Release and Waiver, the "Release Effective Date"). You may be asked to provide reasonable transitional services as a condition of payment of Severance Benefits.

(d) Definitions.

(i) "Affiliate" means, at the time of determination, any "parent" or "majority-owned subsidiary" of the Company, as such terms are defined in Rule 405 promulgated under the Securities Act of 1933, as amended. The Board will have the authority to determine the time or times at which "parent" or "majority-owned subsidiary" status is determined within the foregoing definition.

(ii) "Cause" means the occurrence of any one of more of the following: (i) your conviction of, or plea of no contest with respect to, any felony, or of any misdemeanor involving dishonesty or moral turpitude; (ii) your participation in a fraud or act of dishonesty (or an attempted fraud or act of dishonesty) that results in (or could result in) material harm to the Company or its Affiliates, including but not limited to material harm to reputational interests; (iii) your violation of a fiduciary duty owed to the Company or its Affiliates; (iv) your material breach of any fully executed agreement between you and the Company or any of its Affiliates, including but not limited to this Agreement or your Proprietary Information Agreement, or any applicable Company policies; (v) persistent, unsatisfactory performance or neglect of your job duties, which is not cured within ten (10) business days after you are provided written notice by the Company specifically identifying the manner of your performance or neglect *(provided*, *that*, such written notice and opportunity to cure are not required if your performance or neglect is not reasonably susceptible to being cured); (vi) your gross misconduct or material failure to comply with a written instruction of the Company; or (vii) your inability to perform your job duties for any consecutive thirty (30) day period for any reason that is not the result of death or Disability.

(iii) "Change in Control" means the occurrence, in a single transaction or in a series of related transactions, of any one or more of the following events:

(A) any Exchange Act Person 1 (excluding Imprimis Pharmaceuticals, Inc. and any of its Affiliates ("Imprimis")) becomes the Owner, directly or indirectly, of securities of the Company representing more than fifty percent (50%) of the combined voting power of the Company's then outstanding securities other than by virtue of a merger, consolidation or similar transaction. Notwithstanding the foregoing, a Change in Control will not be deemed to occur (A) on account of the acquisition of securities of the Company directly from the Company, (B) on account of the acquisition of securities of the Company by an investor, any affiliate thereof or any other Exchange Act Person that acquires the Company's securities in a transaction or series of related transactions the primary purpose of which is to obtain financing for the Company through the issuance of equity securities or (C) solely because the level of Ownership held by any Exchange Act Person (the "Subject Person") exceeds the designated percentage threshold of the outstanding voting securities as a

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"Exchange Act Person" means any natural person, entity or "group" (within the meaning of Section 13(d) or 14(d) of the Exchange Act), except that "Exchange Act Person" will not include (i) the Company or any Subsidiary of the Company,

(ii) any employee benefit plan of the Company or any Subsidiary of the Company or any trustee or other fiduciary holding

securities under an employee benefit plan of the Company or any Subsidiary of the Company, (iii) an underwriter temporarily holding securities pursuant to an offering of such securities, (iv) an entity Owned, directly or indirectly, by the stockholders of the Company in substantially the same proportions as their Ownership of stock of the Company; or (v) any natural person, entity or "group" (within the meaning of Section 13(d) or 14(d) of the Exchange Act) that, as of the Effective Date, is the Owner, directly or indirectly, of securities of the Company representing more than fifty percent (50%) of the combined voting power of the Company's then outstanding securities. "Exchange Act" means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

"Own," "Owned," "Owner," "Ownership" A person or entity will be deemed to "Own," to have "Owned," to be the "Owner" of, or to have acquired "Ownership" of securities if such person or entity, directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, has or shares voting power, which includes the power to vote or to direct the voting, with respect to such securities.

result of a repurchase or other acquisition of voting securities by the Company reducing the number of shares outstanding, provided that if a Change in Control would occur (but for the operation of this sentence) as a result of the acquisition of voting securities by the company, and after such share acquisition, the Subject Person becomes the Owner of any additional voting securities that, assuming the

repurchase or other acquisition had not occurred, increases the percentage of the then outstanding voting securities Owned by the Subject Person over the designated percentage threshold, then a Change in Control will be deemed to occur;

(B) there is consummated a merger, consolidation or similar transaction involving (directly or indirectly) the Company and, immediately after the consummation of such merger, consolidation or similar transaction, the stockholders of the Company immediately prior thereto do not Own, directly or indirectly, either (A) outstanding voting securities representing more than fifty percent (50%) of the combined outstanding voting power of the surviving Entity in such merger, consolidation or similar transaction or (B) more than fifty percent (50%) of the combined outstanding voting power of the parent of the surviving Entity in such merger, consolidation or similar transaction, in each case in substantially the same proportions as their Ownership of the outstanding voting securities of the Company immediately prior to such transaction;

(C) the stockholders of the Company approve or the Board approves a plan of complete dissolution or liquidation of the Company, or a complete dissolution or liquidation of the Company will otherwise occur, except for a liquidation into a parent corporation; or

(D) there is consummated a sale, lease, exclusive license or other disposition of all or substantially all of the consolidated assets of the Company and its Subsidiaries, other than a sale, lease, license or other disposition of all or substantially all of the consolidated assets of the Company and its Subsidiaries to Imprimis or to an Entity, more than fifty percent (50%) of the combined voting power of the voting securities of which are Owned by stockholders of the Company in substantially the same proportions as their Ownership of the outstanding voting securities of the Company immediately prior to such sale, lease, license or other disposition.

Notwithstanding the foregoing definition or any other provision of this Agreement, the term Change in Control will not include a sale of assets, merger or other transaction effected exclusively for the purpose of changing the domicile of the Company.

(iv) "Closing" means the initial closing of the Change in Control as defined in the definitive agreement executed in connection with the Change in Control. In the case of a series of transactions constituting a Change in Control, "Closing" means the first closing that satisfies the threshold of the definition for a Change in Control.

(v) "Disability" means your inability to perform the essential functions of your position, with or without reasonable accommodation, by reason of any medically determinable physical or mental impairment, where such inability has continued for at least a period of 60 days in any consecutive 365-day period, as determined by the Company in its sole discretion.

(vi) "Good Reason" for your resignation means the occurrence of any of the following events, conditions or actions taken by the Company without Cause and without your written consent: (i) a material reduction of your annual base salary; *provided, however,* that Good Reason shall not be deemed to have occurred in the event of a reduction in your annual base salary that is pursuant to salary reduction program affecting substantially all of the executive employees of the Company; (ii) a material reduction in your authority, duties or responsibilities, including a requirement that you report to a corporate officer or employee of the Company instead of reporting directly to the Board; (iii) a relocation of your principal place of employment with the Company to a place that increases your one way commute by more than fifty (50) miles as compared to your then-current principal place of employment immediately prior to such relocation (excluding regular travel in the ordinary course of business); or (iv) a material breach by the Company of any provision of this Agreement; *provided, however,* that in each case above, in order for your resignation to be deemed to have been for Good Reason, you must first give the Board written notice of the action or omission giving rise to "Good Reason" within thirty (30) days after the first occurrence thereof; the Company must fail to reasonably cure such action or omission within thirty (30) days after receipt of such notice (the "Cure Period"), and your resignation from all positions you hold with the Company must be effective not later than thirty (30) days after the expiration of such Cure Period.

(vii) “Subsidiary” means, with respect to the Company, (i) any corporation of which more than fifty percent (50%) of the outstanding capital stock having ordinary voting power to elect a majority of the board of directors of such corporation (irrespective of whether, at the time, stock of any other class or classes of such corporation will have or might have voting power by reason of the happening of any contingency) is at the time, directly or indirectly, Owned by the Company, and (ii) any partnership, limited liability company or other entity in which the Company has a direct or indirect interest (whether in the form of voting or participation in profits or capital contribution) of more than fifty percent (50%).

(e) Other. You will not be eligible for any Severance Benefits under any circumstances other than those described herein, including circumstances in which your employment is terminated by the Company for Cause, you terminate your employment for any reason at any time, or your employment terminates due to your death or Disability. In addition, if you materially breach any continuing obligations to the Company (including but not limited to any material breach of the Proprietary Information Agreement) during the period of time that you are receiving any Severance Benefits, you will forfeit your entitlement to any then unpaid Severance Benefits, and the Company’s obligation to continue to pay or provide such Severance Benefits will immediately terminate as of the date of your material breach.

10. Section 409A. It is intended that all of the benefits and other payments payable under this Agreement satisfy, to the greatest extent possible, an exemption from the application of Section 409A of the Code and the regulations and other guidance thereunder and any state law of similar effect (collectively “Section 409A”), and this Agreement will be construed to the greatest extent possible as consistent with those provisions, and to the extent no so exempt, this Agreement (and any definitions hereunder) will be construed in a manner that complies with Section 409A, and any ambiguities herein shall be interpreted accordingly. Specifically, the benefits under this Agreement are intended to satisfy the exemptions from application of Section 409A provided under Treasury Regulations Sections 1.409A-l(b)(4), 1.409A-l (b)(5) and 1.409A-l (b)(9) and each installment of severance benefits, if any, is a separate “payment” for purposes of Treasury Regulations Section l.409A-2(b)(2)(i). However, if such exemptions are not available and you are, upon your “separation from service” with the Company (within the meaning of Treasury Regulation Section 1.409A-l(h) (without regard to any permissible alternative definition thereunder) (“Separation from Service”), a “specified employee” for purposes of Section 409A, then, solely to the extent necessary to avoid adverse personal tax consequences under Section 409A, the timing of the severance benefits payments shall be delayed until the earlier of (i) six (6) months and one (1) day after your Separation from Service, or (ii) your death. Severance benefits shall not commence until you have a Separation from Service. If the severance benefits are not covered by one or more exemptions from the application of Section 409A and the Release and Waiver could become effective in the calendar year following the calendar year in which your Separation from Service occurs, the Release Effective Date will not be deemed effective, for purposes of payment of severance, any earlier than the first day of the second calendar year. Except to the minimum extent that payments must be delayed because you are a “specified employee” or until the Release Effective Date, all severance amounts will be paid as soon as practicable in accordance with this Agreement and the Company’s normal payroll practices.

11. Section 280G.

(a) If any payment or benefit you would receive from the Company or otherwise in connection with a change in control of the Company or other similar transaction ("Payment") would (1) constitute a "parachute payment" within the meaning of Section 280G of the Code, and (2) but for this sentence, be subject to the excise tax imposed by Section 4999 of the Code (the "Excise Tax"), then such Payment will be equal to the Reduced Amount. The "Reduced Amount" will be either (x) the largest portion of the Payment that would result in no portion of the Payment being subject to the Excise Tax, or (y) the largest portion, up to and including the total, of the Payment, whichever amount ((x) or (y)), after taking into account all applicable federal, state and local employment taxes, income taxes, and the Excise Tax (all computed at the highest applicable marginal rate), results in your receipt, on an after- tax basis, of the greater amount of the Payment notwithstanding that all or some portion of the Payment may be subject to the Excise Tax. If a reduction in payments or benefits constituting "parachute payments" is necessary so that the Payment equals the Reduced Amount, reduction will occur in the manner (the "Reduction Method") that results in the greatest economic benefit for you. If more than one method of reduction will result in the same economic benefit, the items so reduced will be reduced pro rata (the "Pro Rata Reduction Method").

(b) Notwithstanding the foregoing, if the Reduction Method or the Pro Rata Reduction Method would result in any portion of the Payment being subject to taxes pursuant to Section 409A that would not otherwise be subject to taxes pursuant to Section 409A, then the Reduction Method and/or the Pro Rata Reduction Method; as the case may be, shall be modified so as to avoid the imposition of taxes pursuant to Section 409A as follows: (A) as a first priority, the modification shall preserve to the greatest extent possible, the greatest economic benefit for you as determined on an after- tax basis; (B) as a second priority, Payments that are contingent on future events (e.g., being terminated without cause), shall be reduced (or eliminated) before Payments that are not contingent on future events; and (C) as a third priority, Payments that are "deferred compensation" within the meaning of Section 409A shall be reduced (or eliminated) before Payments that are not deferred compensation within the meaning of Section 409A.

(c) The independent registered public accounting firm engaged by the Company for general audit purposes as of the day prior to the effective date of the event described in Section 280G(b)(2)(A)(i) of the Code will perform the foregoing calculations. If the independent registered public accounting firm so engaged by the Company is serving as accountant or auditor for the individual, entity or group effecting the change in control or similar transaction, the Company will appoint a nationally recognized independent registered public accounting firm to make the determinations required hereunder. The Company will bear all expenses with respect to the determinations by such independent registered public accounting firm required to be made hereunder. The independent registered public accounting firm engaged to make the determinations hereunder will make its determination with input from you (or your counsel) and provide its calculations, together with detailed supporting documentation, to the Company and you within fifteen (15) calendar days after the date on which your right to a Payment is triggered (if requested at that time by the Company or you) or such other time as reasonably requested by the Company or you.

12. Dispute Resolution. To ensure the rapid and economical resolution of disputes that may arise in connection with your employment with and services for the Company, you and the Company agree that any and all disputes, claims, or causes of action, in law or equity, including but not limited to statutory claims, arising from or relating to the enforcement, breach, performance, or interpretation of this Agreement, your employment with and services for the Company, or the termination of your employment with and services for the Company, will be resolved pursuant to the Federal Arbitration Act, 9 U.S.C. §§1-16, and to the fullest extent permitted by law, by final, binding and confidential arbitration conducted in Chicago, Illinois (or such other location as mutually agreed by the parties) by JAMS, Inc. ("JAMS") or its successors by a single arbitrator. *Both you and the Company acknowledge that by agreeing to this arbitration procedure, you each waive the right to resolve any such dispute through a trial by jury or judge or administrative proceeding.* Any such arbitration proceeding will be governed by JAMS' then applicable rules and procedures for employment disputes, which will be provided to you upon request. In any such proceeding, the arbitrator shall (a) have the authority to compel adequate discovery for the resolution of the dispute and to award such relief as would otherwise be permitted by law; and (b) issue a written arbitration decision including the arbitrator's essential findings and conclusions and a statement of the award. You and the Company each shall be entitled to all rights and remedies that either would be entitled to pursue in a court of law. Nothing in this Agreement is intended to prevent either the Company or you from obtaining injunctive relief in court to prevent irreparable harm pending the conclusion of any such arbitration pursuant to applicable law. The Company shall pay all filing fees in excess of those that would be required if the dispute were decided in a court of law, and shall pay the arbitrator's fees and any other fees or costs unique to arbitration. Any awards or orders in such arbitrations may be entered and enforced as judgments in the federal and state courts of any competent jurisdiction.

13. Indemnification. Upon the Employment Effective Date, you shall be eligible for indemnification by the Company in your role as Chief Executive Officer to the fullest extent as provided for pursuant to Section 8.1 of the Company's By-Laws, as may be amended and restated from time to time.

14. Miscellaneous. This Agreement, along with *Exhibit A*, forms the complete and exclusive statement of your agreement with the Company regarding the subject matter hereof. It supersedes and replaces any other agreements or promises made to you by anyone concerning your employment terms with the Company or any Affiliate thereof, whether oral or written. This Agreement may not be amended or modified except by a written modification signed by you and a duly authorized member of the Board, with the exception of those changes expressly reserved to the Company's discretion in this Agreement. This Agreement is governed by the laws of the state of Illinois without reference to conflicts of law principles, and it is intended to bind and inure to the benefit of and be enforceable by the Company and its successors and assigns. If any provision of this Agreement shall be held invalid or unenforceable in any respect, such invalidity or unenforceability shall not affect the other provisions of this Agreement, and such provision will be reformed, construed and enforced so as to render it valid and enforceable consistent with the general intent of the parties insofar as possible under applicable law. With respect to the enforcement of this Agreement, no waiver of any right hereunder shall be effective unless it is in writing. Any ambiguity in this Agreement shall not be construed against either party as the drafter. This Agreement may be executed in counterparts which shall be deemed to be part of one original, and facsimile and electronic signatures shall be equivalent to original signature. To the extent required by law, your employment with the Company will be subject to satisfactory proof of your identity and right to work in the United States.

To accept our offer of consulting and employment under the terms set forth herein, please sign and date this Agreement and sign and date the Proprietary Information Agreement attached as *Exhibit A*, and return the fully signed documents to me at your earliest convenience and no later than within fifteen business days from the date listed above.

Please let me know if you have any questions.

Sincerely,

ETON PHARMACEUTICALS, INC.

By: */s/ Mark L. Baum*

Mark L. Baum

Reviewed, Understood, and Accepted:

/s/ Sean Brynjelsen

Sean Brynjelsen

Date 5/14/2017

Accepted by Company:

/s/ Mark L. Baum

Mark L. Baum, Executive Director

Date 5/14/2017

EXHIBIT A

PROPRIETARY INFORMATION AGREEMENT

Exhibit 10.13

ETON PHARMACEUTICALS, INC.
21925 Field Parkway
Suite 235
Deer Park, IL 60010

June 23, 2017

Wilson Troutman
1038 E. Adams Street
Lombard, IL 60148

Re: Employment Terms

Dear Wilson:

On behalf of Eton Pharmaceuticals, Inc. (the "**Company**"), I am pleased to offer you employment in the position of Chief Financial Officer of the Company, on the terms set forth in this offer letter agreement (the "**Agreement**").

1. Employment Position; Duties. As Chief Financial Officer of the Company, you will report to the Chief Executive Officer of the Company, and you will have those duties and responsibilities as customary for this position and as may be directed by the Chief Executive Officer of the Company. Your work duties may include work for, or on behalf of, Affiliates of the Company (as defined below). You will primarily work from your current location in Chicago, Illinois, although you understand that reasonable travel shall be required in the performance of your position with the Company. During your employment, you will devote your full-time best efforts to the business of the Company and its Affiliates. Your commencement of employment pursuant to this Agreement will start on or around July 17, 2017 (such actual date of your commencement of employment, the "**Start Date**").

2. Employee Base Salary; Employee Benefits and Business Expenses.

(a) Base Salary. Your base salary will be paid at the annual rate of $200,000, less required payroll deductions and tax withholdings, paid on the Company's normal payroll schedule (which shall initially be bi-weekly). As an exempt salaried employee, you will be required to work the Company's normal business hours, and such additional time as appropriate for your work assignments and position. You will not be eligible for extra payment under the overtime laws. Your base salary may otherwise be adjusted from time to time at the Company's discretion.

(b) Employee Benefits. As a regular full-time employee, you will be eligible to participate in the Company's standard employee benefits (pursuant to the terms and conditions of the benefit plans and applicable policies), as they may be terminated or changed from time to time within the Company's discretion.

(c) Business Expenses. Your legitimate and documented business expenses will be reimbursed by the Company as provided under its business expense reimbursement policies.

3. Annual Performance Bonus. In addition to base salary, you will be eligible to earn discretionary incentive compensation at a total annual target amount of forty percent (40%) of your base salary in effect during the bonus year ("**Performance Bonus**"), based on the achievement of corporate and/or individual performance targets to be determined and approved by the Board of Directors (the "**Board**") or the Compensation Committee of the Board (the "**Compensation Committee**"). The Performance Bonus, if earned, will be paid on an annual basis, less required payroll deductions and tax withholdings, after the close of the fiscal year and after determination by the Board (or the Compensation Committee thereof) of the level of achievement of the applicable performance targets and metrics and the level of the Performance Bonus amount (if any). No Performance Bonus amount is guaranteed and, in addition to the other conditions for earning such Performance Bonus, you must remain an employee in good standing of the Company on the Performance Bonus payment date in order to earn any Performance Bonus. You will be eligible for a Performance Bonus for the initial year of your employment with the Company, pro-rated based on when your Start Date occurs.

4. Equity Award. Following your commencement of employment with the Company, you will be granted an option under the Company's 2017 Equity Incentive Plan (the "**Plan**") to purchase 150,000 shares of common stock of the Company (the "**Option**"). The Option shall vest with respect to 25% of the shares underlying the Option on the one-year anniversary of your Start Date, and in equal yearly installments thereafter, subject to your continued services to the Company. The Option shall be subject to approval by the Board (or authorized committee thereof) and to the terms and conditions of the Plan, stock option grant notice and option agreement to be entered into between you and the Company. The Option shall have an exercise price per share equal to the fair market value of the Company's common stock on the grant date of the Option, as determined by the Board (or authorized committee thereof) in its sole, good faith discretion.

5. Compliance With Confidential Information Agreement and Company Policies. As a condition of employment, you shall sign and comply with the Company's form of Confidential Information and Inventions Agreement (or similarly termed agreement) (the "**Confidential Information Agreement**") which will be provided by the Company. In addition, you are required to abide by the Company's policies and procedures, as may be modified from time to time within the Company's discretion.

6. Protection of Third Party Information and Outside Activities.

(a) Third Party Information. In your work for the Company or its Affiliates, you will be expected not to make any unauthorized use or disclosure of any confidential information or materials, including trade secrets, of any former employer or other third party; and not to violate any lawful agreement that you may have with any third party. By signing this Agreement, you represent that you are able to perform your job duties within these guidelines, and you are not in unauthorized possession or control of any confidential documents, information, or other property of any former employer or third party. In addition, you represent that you have disclosed to the Company in writing any agreement you may have with any third party (e.g., a former employer) which may limit your ability to perform your duties to the Company or its Affiliates, or which could present a conflict of interest with the Company or its Affiliates, including but not limited to disclosure (and a copy) of any contractual restrictions on solicitations or competitive activities, and are not bound by any such restrictions which would restrict or prevent you from accepting employment with the Company.

(b) Outside Activities. During your employment with the Company, you may engage in civic and not-for-profit activities, act as a trustee for estate planning purposes and engage in, and manage, personal investments, so long as such activities do not interfere with the performance of your duties hereunder or present a conflict of interest with the Company or its Affiliates. Subject to the restrictions set forth herein, and only with prior written disclosure to and consent of the Board, you may engage in other types of business or public activities. Your service on any board of directors (or similar) of an outside entity or organization shall be subject to prior written approval of the Board (or an authorized committee thereof). The Board may rescind approval of outside services, if the Board determines, in its sole discretion, that such activities compromise or threaten to compromise the Company's or its Affiliates' business interests or conflict with your duties to the Company or its Affiliates.

(c) Duty of Loyalty. During your employment with the Company, you will not, without the express written consent of the Board, directly or indirectly serve as an officer, director, stockholder, employee, partner, proprietor, investor, joint venturer, associate, representative or consultant of any person or entity engaged in, or planning or preparing to engage in, business activity competitive with any line of business engaged in (or, to your knowledge, immediately planned to be engaged in) by the Company or its Affiliates; provided, however, that you may purchase or otherwise acquire up to (but not more than) five percent (5%) of any class of securities of any enterprise (without participating in the activities of such enterprise) if such securities are listed on any national or regional securities exchange. In addition, you will be subject to certain restrictions (including restrictions continuing after your employment ends) under the terms of your Confidential Information Agreement.

7. **At-Will Employment Relationship**. Your employment relationship with the Company is at-will. Accordingly, you may terminate your employment with the Company at any time and for any reason whatsoever simply by notifying the Company, and the Company may terminate your employment at any time with or without Cause or prior notice. In addition, the Company retains the discretion to modify your other employment terms from time to time, including but not limited to your position, duties, authority, reporting relationship, work location, compensation, and benefits.

8. **Severance Benefits**.

(a) **Severance Benefits for Covered Termination**. If, beginning on or after the six (6) month anniversary of your Start Date, (A) your employment is terminated due to (1) a termination by the Company without Cause (other than as a result of your death or Disability) or (2) your resignation for Good Reason (collectively, a "**Covered Termination**"), (B) you satisfy the Release Requirement and (C) you continue to abide by the terms of your Confidential Information Agreement and the provisions of this Agreement that survive your termination, including the Non-Competition provisions set forth in Section 11 (the requirements set forth in (B) and (C), the "**Severance Requirements**"), then you will receive the "**Severance Benefits**" as set forth in this Section 8(a) as your sole severance benefits, and you will not be eligible for severance benefits under any other policy, plan or agreement except to the extent required by law. Specifically, you will receive:

(i) **Severance Payments**. Severance pay in the form of continuation of your base salary at the time of your Covered Termination (but ignoring any decrease that forms the basis of your resignation for Good Reason, if applicable) for a period of six (6) months, subject to required payroll deductions and tax withholdings (the "**Severance Payments**"). Subject to Section 9, the Severance Payments shall be made on the Company's regular payroll schedule in effect following your termination date, provided, however, that any such payments that are otherwise scheduled to be made prior to the Release Effective Date (as defined below) shall instead accrue and be made on the first regular payroll date following the Release Effective Date; and

(ii) **Health Care Continuation Coverage Payments**.

(A) **COBRA Premiums**. If you timely elect continued coverage under COBRA, the Company will pay your COBRA premiums to continue your coverage (including coverage for your eligible dependents, if applicable) ("**COBRA Premiums**") through the period starting on the termination date and ending six (6) months after the termination date (the "**COBRA Premium Period**"); provided, however, that the Company's provision of such COBRA Premium benefits will immediately cease if during the COBRA Premium Period you become eligible for group health insurance coverage through a new employer or you cease to be eligible for COBRA continuation coverage for any reason, including plan termination. In the event you become covered under another employer's group health plan or otherwise cease to be eligible for COBRA during the COBRA Premium Period, you must immediately notify the Company of such event. For purposes of this Section, references to COBRA premiums shall not include any amounts payable you under a Section 125 health care reimbursement plan under the Internal Revenue Code of 1986, as amended (the "**Code**").

(B) Special Cash Payments in Lieu of COBRA Premiums. Notwithstanding the foregoing, if the Company determines, in its sole discretion, that it cannot pay the COBRA Premiums without potentially incurring financial costs or penalties under applicable law (including, without limitation, Section 2716 of the Public Health Service Act), regardless of whether you or your dependents elect or are eligible for COBRA coverage, the Company instead shall pay to you, on the first day of each calendar month following the time the Company determines it cannot pay such COBRA Premiums, a fully taxable cash payment equal to the applicable COBRA premiums for that month (including the amount of COBRA premiums for your eligible dependents), subject to applicable tax withholdings (such amount, the "**Special Cash Payment**"), for the remainder of the COBRA Premium Period. You may, but are not obligated to, use such Special Cash Payments toward the cost of COBRA premiums.

(b) Severance Benefits for Covered Termination during Change in Control Period. Notwithstanding the foregoing, if your Covered Termination occurs during the period commencing one (1) month prior to the Closing of a Change in Control and ending twelve (12) months following the Closing of a Change in Control, in addition to the Severance Benefits described in Section 8(a), you shall also be eligible to receive the following, subject to satisfaction of the Severance Requirements:

(i) Equity Acceleration. The vesting and exercisability of each outstanding unvested stock option and other stock award, as applicable, that you hold covering Company common stock (each, an "**Equity Award**") shall be accelerated in full and any reacquisition or repurchase rights held by the Company in respect of common stock issued pursuant to any Equity Award granted to you shall lapse in full. For purposes of determining the number of shares that will vest pursuant to the foregoing provision with respect to any Equity Award that vests based on performance goals for which the performance period has not ended and that has multiple vesting levels depending upon the level of performance, vesting acceleration with respect to any ongoing performance period(s) shall occur with respect to the number of shares subject to the award as if the applicable performance criteria had been attained at a 100% level or, if greater, based on actual performance as of your Covered Termination. If necessary to give effect to this Section 8(b)(i), if your Covered Termination occurs prior to a Change in Control, all of the Equity Awards you hold as of immediately prior to your Covered Termination shall remain outstanding after your Covered Termination for at least until the earlier of (i) thirty (30) days after your Covered Termination or (ii) the Closing, if sooner. Notwithstanding anything to the contrary set forth herein, your Equity Awards shall remain subject to the terms of the applicable Company plan and award documents under which such Equity Award was granted, including any provision for earlier termination of such Equity Awards.

(c) Release Requirement. To be eligible for the Severance Benefits pursuant to Sections 8(a) and 8(b) above, you must satisfy the following release requirement (the "**Release Requirement**"): return to the Company a signed and dated general release of all known and unknown claims, in such form as provided by the Company (the "**Release and Waiver**") within the applicable deadline set forth therein, and permit the Release and Waiver to become effective and irrevocable in accordance with its terms, which must occur no later than sixty (60) days following your termination date (such effective date of the Release and Waiver, the "**Release Effective Date**"). You may be asked to provide reasonable transitional services as a condition of payment of Severance Benefits.

(d) Definitions.

(i) "**Affiliate**" means, at the time of determination, any "parent" or "majority-owned subsidiary" of the Company, as such terms are defined in Rule 405 promulgated under the Securities Act of 1933, as amended. The Board will have the authority to determine the time or times at which "parent" or "majority-owned subsidiary" status is determined within the foregoing definition.

(ii) "**Cause**" means the occurrence of any one or more of the following: (i) your conviction of, or plea of no contest with respect to, any felony, or of any misdemeanor involving dishonesty or moral turpitude; (ii) your participation in a fraud or act of dishonesty (or an attempted fraud or act of dishonesty) that results in (or could result in) material harm to the Company or its Affiliates, including but not limited to material harm to reputational interests; (iii) your violation of a fiduciary duty owed to the Company or its Affiliates; (iv) your material breach of any fully executed agreement between you and the Company or any of its Affiliates, including but not limited to this Agreement or your Confidential Information Agreement, or any applicable Company policies; (v) persistent, unsatisfactory performance or neglect of your job duties, which is not cured within ten (10) business days after you are provided written notice by the Company specifically identifying the manner of your performance or neglect (*provided*, *that*, such written notice and opportunity to cure are not required if your performance or neglect is not reasonably susceptible to being cured); (vi) your gross misconduct or material failure to comply with a written instruction of the Company; or (vii) your inability to perform your job duties for any consecutive thirty (30) day period for any reason that is not the result of death or Disability.

(iii) "**Change in Control**" means the occurrence, in a single transaction or in a series of related transactions, of any one or more of the following events:

(A) any Exchange Act Person[1] (excluding Imprimis Pharmaceuticals, Inc. and any of its Affiliates ("**Imprimis**")) becomes the Owner[2], directly or indirectly, of securities of the Company representing more than fifty percent (50%) of the combined voting power of the Company's then outstanding securities other than by virtue of a merger, consolidation or similar transaction. Notwithstanding the foregoing, a Change in Control will not be deemed to occur (A) on account of the acquisition of securities of the Company directly from the Company, (B) on account of the acquisition of securities of the Company by an investor, any affiliate thereof or any other Exchange Act Person that acquires the Company's securities in a transaction or series of related transactions the primary purpose of which is to obtain financing for the Company through the issuance of equity securities or (C) solely because the level of Ownership held by any Exchange Act Person (the "**Subject Person**") exceeds the designated percentage threshold of the outstanding voting securities as a result of a repurchase or other acquisition of voting securities by the Company reducing the number of shares outstanding, provided that if a Change in Control would occur (but for the operation of this sentence) as a result of the acquisition of voting securities by the Company, and after such share acquisition, the Subject Person becomes the Owner of any additional voting securities that, assuming the repurchase or other acquisition had not occurred, increases the percentage of the then outstanding voting securities Owned by the Subject Person over the designated percentage threshold, then a Change in Control will be deemed to occur;

(B) there is consummated a merger, consolidation or similar transaction involving (directly or indirectly) the Company and, immediately after the consummation of such merger, consolidation or similar transaction, the stockholders of the Company immediately prior thereto do not Own, directly or indirectly, either (A) outstanding voting securities representing more than fifty percent (50%) of the combined outstanding voting power of the surviving entity in such merger, consolidation or similar transaction or (B) more than fifty percent (50%) of the combined outstanding voting power of the parent of the surviving entity in such merger, consolidation or similar transaction, in each case in substantially the same proportions as their Ownership of the outstanding voting securities of the Company immediately prior to such transaction;

(C) the stockholders of the Company approve or the Board approves a plan of complete dissolution or liquidation of the Company, or a complete dissolution or liquidation of the Company will otherwise occur, except for a liquidation into a parent corporation; or

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[1] "**Exchange Act Person**" means any natural person, entity or "group" (within the meaning of Section 13(d) or 14(d) of the Exchange Act), except that "Exchange Act Person" will not include (i) the Company or any Subsidiary of the Company, (ii) any employee benefit plan of the Company or any Subsidiary of the Company or any trustee or other fiduciary holding securities under an employee benefit plan of the Company or any Subsidiary of the Company, (iii) an underwriter temporarily holding securities pursuant to an offering of such securities, (iv) an entity Owned, directly or indirectly, by the stockholders of the Company in substantially the same proportions as their Ownership of stock of the Company; or (v) any natural person, entity or "group" (within the meaning of Section 13(d) or 14(d) of the Exchange Act) that, as of the Effective Date, is the Owner, directly or indirectly, of securities of the Company representing more than fifty percent (50%) of the combined voting power of the Company's then outstanding securities. "**Exchange Act**" means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

[2] "**Own**," "**Owned**," "**Owner**," "**Ownership**" A person or entity will be deemed to "Own," to have "Owned," to be the "Owner" of, or to have acquired "Ownership" of securities if such person or entity, directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, has or shares voting power, which includes the power to vote or to direct the voting, with respect to such securities.

(D) there is consummated a sale, lease, exclusive license or other disposition of all or substantially all of the consolidated assets of the Company and its Subsidiaries, other than a sale, lease, license or other disposition of all or substantially all of the consolidated assets of the Company and its Subsidiaries to Imprimis or to an entity, more than fifty percent (50%) of the combined voting power of the voting securities of which are Owned by stockholders of the Company in substantially the same proportions as their Ownership of the outstanding voting securities of the Company immediately prior to such sale, lease, license or other disposition.

Notwithstanding the foregoing definition or any other provision of this Agreement, the term Change in Control will not include a sale of assets, merger or other transaction effected exclusively for the purpose of changing the domicile of the Company.

(iv) "**Closing**" means the initial closing of the Change in Control as defined in the definitive agreement executed in connection with the Change in Control. In the case of a series of transactions constituting a Change in Control, "Closing" means the first closing that satisfies the threshold of the definition for a Change in Control.

(v) "**Disability**" means your inability to perform the essential functions of your position, with or without reasonable accommodation, by reason of any medically determinable physical or mental impairment, where such inability has continued for at least a period of 60 days in any consecutive 365 day period, as determined by the Company in its sole discretion.

(vi) "**Good Reason**" for your resignation means the occurrence of any of the following events, conditions or actions taken by the Company without Cause and without your written consent: (i) a material reduction of your annual base salary; *provided, however*, that Good Reason shall not be deemed to have occurred in the event of a reduction in your annual base salary that is pursuant to a salary reduction program affecting substantially all of the executive employees of the Company; (ii) a material reduction in your authority, duties or responsibilities; (iii) a relocation of your principal place of employment with the Company to a place that increases your one-way commute by more than fifty (50) miles as compared to your then-current principal place of employment immediately prior to such relocation (excluding regular travel in the ordinary course of business); or (iv) a material breach by the Company of any provision of this Agreement; provided, however, that in each case above, in order for your resignation to be deemed to have been for Good Reason, you must first give the Board written notice of the action or omission giving rise to "Good Reason" within thirty (30) days after the first occurrence thereof; the Company must fail to reasonably cure such action or omission within thirty (30) days after receipt of such notice (the "**Cure Period**"), and your resignation from all positions you hold with the Company must be effective not later than thirty (30) days after the expiration of such Cure Period.

(vii) "**Subsidiary**" means, with respect to the Company, (i) any corporation of which more than fifty percent (50%) of the outstanding capital stock having ordinary voting power to elect a majority of the board of directors of such corporation (irrespective of whether, at the time, stock of any other class or classes of such corporation will have or might have voting power by reason of the happening of any contingency) is at the time, directly or indirectly, Owned by the Company, and (ii) any partnership, limited liability company or other entity in which the Company has a direct or indirect interest (whether in the form of voting or participation in profits or capital contribution) of more than fifty percent (50%).

(e) Other. You will not be eligible for any Severance Benefits under any circumstances other than those described herein, including circumstances in which your employment is terminated by the Company for Cause, you terminate your employment for any reason at any time, or your employment terminates due to your death or Disability. In addition, if you materially breach any continuing obligations to the Company (including but not limited to any material breach of the Confidential Information Agreement and the Non-Competition terms set forth in Section 11) during the period of time that you are receiving any Severance Benefits, you will forfeit your entitlement to any then unpaid Severance Benefits, and the Company's obligation to continue to pay or provide such Severance Benefits will immediately terminate as of the date of your material breach.

9. Section 409A. It is intended that all of the benefits and other payments payable under this Agreement satisfy, to the greatest extent possible, an exemption from the application of Section 409A of the Code and the regulations and other guidance thereunder and any state law of similar effect (collectively "**Section 409A**"), and this Agreement will be construed to the greatest extent possible as consistent with those provisions, and to the extent no so exempt, this Agreement (and any definitions hereunder) will be construed in a manner that complies with Section 409A, and any ambiguities herein shall be interpreted accordingly. Specifically, the benefits under this Agreement are intended to satisfy the exemptions from application of Section 409A provided under Treasury Regulations Sections 1.409A-1(b)(4), 1.409A-1(b)(5) and 1.409A-1(b)(9) and each installment of severance benefits, if any, is a separate "payment" for purposes of Treasury Regulations Section 1.409A-2(b)(2)(i). However, if such exemptions are not available and you are, upon your "separation from service" with the Company (within the meaning of Treasury Regulation Section 1.409A-1(h) (without regard to any permissible alternative definition thereunder) ("**Separation from Service**"), a "specified employee" for purposes of Section 409A, then, solely to the extent necessary to avoid adverse personal tax consequences under Section 409A, the timing of the severance benefits payments shall be delayed until the earlier of (i) six (6) months and one (1) day after your Separation from Service, or (ii) your death. Severance benefits shall not commence until you have a Separation from Service. If the severance benefits are not covered by one or more exemptions from the application of Section 409A and the Release and Waiver could become effective in the calendar year following the calendar year in which your Separation from Service occurs, the Release Effective Date will not be deemed effective, for purposes of payment of severance, any earlier than the first day of the second calendar year. Except to the minimum extent that payments must be delayed because you are a "specified employee" or until the Release Effective Date, all severance amounts will be paid as soon as practicable in accordance with this Agreement and the Company's normal payroll practices.

10. Section 280G.

(a) If any payment or benefit you would receive from the Company or otherwise in connection with a change in control of the Company or other similar transaction ("**Payment**") would (1) constitute a "parachute payment" within the meaning of Section 280G of the Code, and (2) but for this sentence, be subject to the excise tax imposed by Section 4999 of the Code (the "**Excise Tax**"), then such Payment will be equal to the Reduced Amount. The "**Reduced Amount**" will be either (x) the largest portion of the Payment that would result in no portion of the Payment being subject to the Excise Tax, or (y) the largest portion, up to and including the total, of the Payment, whichever amount ((x) or (y)), after taking into account all applicable federal, state and local employment taxes, income taxes, and the Excise Tax (all computed at the highest applicable marginal rate), results in your receipt, on an after-tax basis, of the greater amount of the Payment notwithstanding that all or some portion of the Payment may be subject to the Excise Tax. If a reduction in payments or benefits constituting "parachute payments" is necessary so that the Payment equals the Reduced Amount, reduction will occur in the manner (the "**Reduction Method**") that results in the greatest economic benefit for you. If more than one method of reduction will result in the same economic benefit, the items so reduced will be reduced pro rata (the "**Pro Rata Reduction Method**").

(b) Notwithstanding the foregoing, if the Reduction Method or the Pro Rata Reduction Method would result in any portion of the Payment being subject to taxes pursuant to Section 409A that would not otherwise be subject to taxes pursuant to Section 409A, then the Reduction Method and/or the Pro Rata Reduction Method, as the case may be, shall be modified so as to avoid the imposition of taxes pursuant to Section 409A as follows: (A) as a first priority, the modification shall preserve to the greatest extent possible, the greatest economic benefit for you as determined on an after-tax basis; (B) as a second priority, Payments that are contingent on future events (e.g., being terminated without cause), shall be reduced (or eliminated) before Payments that are not contingent on future events; and (C) as a third priority, Payments that are "deferred compensation" within the meaning of Section 409A shall be reduced (or eliminated) before Payments that are not deferred compensation within the meaning of Section 409A.

(c) The independent registered public accounting firm engaged by the Company for general audit purposes as of the day prior to the effective date of the event described in Section 280G(b)(2)(A)(i) of the Code will perform the foregoing calculations. If the independent registered public accounting firm so engaged by the Company is serving as accountant or auditor for the individual, entity or group effecting the change in control or similar transaction, the Company will appoint a nationally recognized independent registered public accounting firm to make the determinations required hereunder. The Company will bear all expenses with respect to the determinations by such independent registered public accounting firm required to be made hereunder. The independent registered public accounting firm engaged to make the determinations hereunder will make its determination with input from you (or your counsel) and provide its calculations, together with detailed supporting documentation, to the Company and you within fifteen (15) calendar days after the date on which your right to a Payment is triggered (if requested at that time by the Company or you) or such other time as reasonably requested by the Company or you.

11. **Non-Competition**. You agree that during the period of your employment and for the period of 12 months after the date your employment ends for any reason, including but not limited to voluntary termination by you or involuntary termination by the Company, you will not perform services for, or in any way manage, operate, join, control or participating in the ownership, management, operation or control of, or be connected to as an employee, shareholder, director, manager, member, consultant, adviser, volunteer, or partner to, whether for compensation or not, any entity (including for your own account), that engages in a Competing Business anywhere in the world where the Company conducts business. You and the Company agree that for purposes of this Agreement, "**Competing Business**" means any product, creative solution, or service that contains the same active ingredient and which is sold or provided in competition with a product, creative solution, or service that: (a) you sold or provided on behalf of the Company; (b) one or more Company employees or business units managed, supervised, or directed by you sold or provided on behalf of the Company; (c) was designed, developed, tested, distributed, marketed, provided, or produced by you (individually or in collaboration with other Company employees) or one or more Company employees or business units you managed, supervised, or directed; or (d) that was designated, tested, developed, distributed, marketed, produced, sold, or provided by the Company with management or executive support from you. This provision does not prohibit you from being a passive investor of not more than 5% of the outstanding stock of any Competing Business, so long as you have no active participation in the business of such Competing Business.

12. **Dispute Resolution**. To ensure the rapid and economical resolution of disputes that may arise in connection with your employment with and services for the Company, you and the Company agree that any and all disputes, claims, or causes of action, in law or equity, including but not limited to statutory claims, arising from or relating to the enforcement, breach, performance, or interpretation of this Agreement, your employment with and services for the Company, or the termination of your employment with and services for the Company, will be resolved pursuant to the Federal Arbitration Act, 9 U.S.C. §§1-16, and to the fullest extent permitted by law, by final, binding and confidential arbitration conducted in Chicago, Illinois (or such other location as mutually agreed by the parties) by JAMS, Inc. ("**JAMS**") or its successors by a single arbitrator. ***Both you and the Company acknowledge that by agreeing to this arbitration procedure, you each waive the right to resolve any such dispute through a trial by jury or judge or administrative proceeding***. Any such arbitration proceeding will be governed by JAMS' then applicable rules and procedures for employment disputes, which will be provided to you upon request. In any such proceeding, the arbitrator shall (a) have the authority to compel adequate discovery for the resolution of the dispute and to award such relief as would otherwise be permitted by law; and (b) issue a written arbitration decision including the arbitrator's essential findings and conclusions and a statement of the award. You and the Company each shall be entitled to all rights and remedies that either would be entitled to pursue in a court of law. Nothing in this Agreement is intended to prevent either the Company or you from obtaining injunctive relief in court to prevent irreparable harm pending the conclusion of any such arbitration pursuant to applicable law. The Company shall pay all filing fees in excess of those that would be required if the dispute were decided in a court of law, and shall pay the arbitrator's fees and any other fees or costs unique to arbitration. Any awards or orders in such arbitrations may be entered and enforced as judgments in the federal and state courts of any competent jurisdiction.

13. **Indemnification**. Upon your Start Date, you shall be eligible for indemnification by the Company in your role as Chief Financial Officer to the fullest extent as provided for pursuant to Section 8.1 of the Company's By-Laws, as may be amended and restated from time to time.

14. **Miscellaneous**. This Agreement, along with the Confidential Information Agreement, forms the complete and exclusive statement of your agreement with the Company regarding the subject matter hereof. It supersedes and replaces any other agreements or promises made to you by anyone concerning your employment terms with the Company or any Affiliate thereof, whether oral or written. This Agreement may not be amended or modified except by a written modification signed by you and a duly authorized member of the Board, with the exception of those changes expressly reserved to the Company's discretion in this Agreement. This Agreement is governed by the laws of the state of Illinois without reference to conflicts of law principles, and it is intended to bind and inure to the benefit of and be enforceable by the Company and its successors and assigns. If any provision of this Agreement shall be held invalid or unenforceable in any respect, such invalidity or unenforceability shall not affect the other provisions of this Agreement, and such provision will be reformed, construed and enforced so as to render it valid and enforceable consistent with the general intent of the parties insofar as possible under applicable law. With respect to the enforcement of this Agreement, no waiver of any right hereunder shall be effective unless it is in writing. Any ambiguity in this Agreement shall not be construed against either party as the drafter. This Agreement may be executed in counterparts which shall be deemed to be part of one original, and facsimile and electronic signatures shall be equivalent to original signatures. To the extent required by law, your employment with the Company will be subject to satisfactory proof of your identity and right to work in the United States.

To accept our offer of employment under the terms set forth herein, please sign and date this Agreement and return the fully signed documents to me at your earliest convenience and no later than within fifteen business days from the date listed above.

Please let me know if you have any questions.

Sincerely,

ETON PHARMACEUTICALS, INC.

By: */s/ Sean Brynjelsen*
Sean Brynjelsen

Reviewed, Understood, and Accepted:

/s/ Wilson Troutman	June 25, 2017
Wilson Troutman	Date

Accepted by Company:

/s/ Sean Brynjelsen	June 25, 2017
Sean Brynjelsen, Chief Executive Officer	Date

Exhibit 10.14

EXCLUSIVE LICENSE AND SUPPLY AGREEMENT

This Exclusive License and Supply Agreement ("Agreement") is made and entered into as of August 3, 2018 ("Effective Date"), between ETON PHARMACEUTICALS, INC., a Delaware corporation ("ETON"), with a place of business at 21925 Field Parkway, Suite 235, Deer Park, IL 60010, LIQMEDS WORLDWIDE LIMITED, a private company limited by shares, registered in England and Wales ("LMW"), with a place of business at 65 Delamere Road, Hayes, Middlesex, United Kingdom, UB4 0NN, and LM MANUFACTURING, LTD. ("LM"), each a "Party" and collectively the "Parties").

RECITALS

WHEREAS, LMW has developed a proprietary solution designated as *** Oral Solution (the "Product");

WHEREAS, ETON is engaged in the business of licensing, developing, marketing, distributing and selling pharmaceutical drug products;

WHEREAS, LM is engaged in the business of manufacturing the Product;

WHEREAS, the Parties desire to enter into a license and supply agreement for the development, manufacture and marketing of the Product within the Territory (as defined below) subject to the terms set out in this Agreement.

NOW, THEREFORE, in consideration of the respective covenants, agreements, representations, warranties and indemnities herein contained and for other good and valuable consideration (the receipt and sufficiency of which are acknowledged by each Party), the Parties agree to the following terms and conditions:

AGREEMENT

1. Definitions.

"Accounting Standards" shall mean, with respect to a Person, the current applicable Generally Accepted Accounting Principles (GAAP) in the United States of America consistently applied by such a Person.

***Text has been omitted pursuant to Registrant's confidential treatment request filed with the Securities and Exchange Commission ("Commission") pursuant to Rule 406 under the Securities Act of 1933. The omitted text has been filed separately with the Commission
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“Affiliate” means with respect to any Party, any party controlling, controlled by or under common control with any such Party. For purposes hereof, “control” and its derivatives means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Party, whether through the ownership of voting securities or voting interests, by contract or otherwise.

“ANDA” means an Abbreviated New Drug Application, or similar application for marketing approval of a Product submitted to the FDA.

“API” means the active pharmaceutical ingredient in unfinished form.

“Applicable Law” means as to any person or entity, any treaty, constitution, statute, ordinance, law, rule or regulation, guidance issued by a governmental or regulatory authority, or order or other determination of an arbitrator or a court or other governmental or regulatory authority, in each case applicable to or binding upon such person or entity or any of its property or to which such person or entity or any of its property is subject (including, without limitation, the U.S. Act and cGMPs).

“Calendar Quarter” means the three-month period beginning on January 1, April 1, July 1, and October 1 of each calendar year.

“cGMP” generally means current Good Manufacturing Practices in the Territory. With respect specifically to the Registration (NDA or ANDA), cGMP means the current Good Manufacturing Practices as established by FDA as the same may be amended from time to time.

“CMO” means the acronym, Contract Manufacturing Organization, a third-party contract manufacturer. The initial CMO is LM Manufacturing, Ltd. (“LM”)

“Commercial Launch” means the first shipment of the Product in commercial quantities for commercial sale to a third party in the Territory after receipt of all applicable regulatory approvals therefor.

“Components” means raw materials for use in manufacturing of the API and/or the Product.

“FDA” means the United States Food and Drug Administration and its successors.

“NDA” shall mean a New Drug Application, or similar application for marketing approval of a Product submitted to the FDA.

“Insignia” means trademarks, trade names, logos, symbols, badges, labels, decorative designs, packaging designs or similar trade dress.

“Net Profit” shall mean Net Sales less (i) ETON’s Transfer Price paid for the Product, (ii) the cost of any customs duties, tariffs, freight, recall fees, patient assistance/copay programs and insurance for shipment of the Product, and (iii) supply marketing and management fee (“SMM Fee”) in connection therewith billed to a Third Party by ETON or any of its Affiliates or sublicensees and before income taxes. Net Profits shall be calculated in accordance with U.S. generally accepted accounting principles.

“Net Sales” shall mean, with respect to any Calendar Quarter, the actual total gross sales of the Product (number of units times the invoice price per unit) by ETON or its Affiliates in the Territory to Third Party customers (including hospital sales, mail orders, retail sales, and sales to governmental entities, wholesalers, and medical institutions) less the following deductions: (i) cash or prompt payment discounts, credits or allowances actually granted upon claims, damaged goods, rejections or returns of the Product; (ii) services fees, distribution fees or commissions payable to Third Party customers; (iii) Freight, postage shipping and insurance charges for the delivery of the Product to Third Party customers if separately stated on the invoice; (iv) taxes (excluding income taxes) or duties levied on, absorbed or otherwise imposed on the sale of the Product; (v) adjustments on account of price adjustments or one-time per customer stocking allowances; (vi) chargebacks resulting from resales by wholesalers and distributors to other Third Parties; (vii) rebates, promotional allowances, administrative fee agreements and similar buying groups, health care insurance carriers, pharmacy benefit management companies, health maintenance organizations, Medicaid or Medicare or similar type programs, professional allowances, trade spend and payments to public or private third party payers; and (viii) other programs of monetary value usual or customary in the pharmaceutical industry in the Territory provided to customers and (ix) any invoiced amounts which are not collectable by ETON or its Affiliates (including bad debts), the entire set of aforementioned deductions (i through ix inclusive) as solely in connection with the sale of the Product and as determined in accordance with U.S. generally accepted accounting principles.

“Person” shall mean an individual, a corporation, a company, a firm, a joint venture, a partnership, an association, a trust or other business entity or organization, including a government or agency or political subdivision thereof.

“Product” means *** Oral Solution.

*** Text has been omitted pursuant to Registrant’s confidential treatment request filed with the Securities and Exchange Commission (“Commission”) pursuant to Rule 406 under the Securities Act of 1933. The omitted text has been filed separately with the Commission

"Territory" means collectively all the territories and possessions of the United States of America.

"US Regulatory Agent" means, the party responsible for all communications with the FDA for the NDA or ANDA, including but not limited to compiling and submission of Annual Reports, any necessary Pharmacovigilance, and AE reporting.

2. License Grants and Financial Terms.

a. License Grants. Subject to the terms of this Agreement, LMW hereby grants to ETON an exclusive license of the Product for the development, manufacture, importation, use, sale and offer for sale of the Product, including any and all intellectual property related to the Product, in the Territory.

b. Milestone Payments. Within thirty (30) days following the first achievement of each of the following milestone events, ETON shall pay to LMW the corresponding non-reimbursable milestone payments, not to exceed four million six hundred thousand dollars ($4,600,000.00 US), as follows:

Milestone Event	**Milestone Payment**
Upon execution of this exclusive license and supply agreement ("Agreement")	Three hundred fifty thousand dollars ($350,000.00 US)
Upon FDA acceptance of NDA filing for review	One million five hundred thousand dollars ($1,500,000.00 US)
Upon FDA approval of NDA, provided that the approval is received prior to December 31, 2020	One million dollars ($1,000,000.00 US)
Upon issuance of Product patent listed in the FDA's Orange-Book	One million two hundred fifty thousand dollars ($1,250,000.00 US)
If Product sales exceed $10 million US within a calendar year	Five hundred thousand dollars ($500,000.00 US)

c. Profit Sharing. Subject to the terms of this Agreement, ETON shall pay to LMW thirty-five (35%) of the Net Profit, payable on a quarterly calendar basis; provided however, that if during any Calendar Quarter the Net Profits are negative (less than zero) then a negative balance will accrue and will be offset by future milestone or profit share payments owed to LMW. Profit sharing payments, accompanied by a statement reasonably setting forth the basis for the calculation, shall be tendered by ETON to LMW within forty-five (45) days following the end of the Calendar Quarter. Deductions under Net Profits, if any, shall be summarized in reasonable detail with corresponding supporting documentation.

3. Product NDA/ANDA.

   a. NDA/ANDA. Subject to the terms and conditions of this Agreement, LMW hereby grants to ETON the exclusive right to develop, obtain regulatory approval for, make, have made, use, sell, offer to sell, import and otherwise commercialize Products in the Territory. ETON will be the owner of the NDA/ANDA and shall take all reasonably necessary steps to obtain an NDA/ANDA for the Product in the Territory by performing such development and obtaining such data and information as reasonably necessary therefor.

   b. NDA/ ANDA Submission Fees. ETON shall be responsible for the submission fees for the NDA/ANDA. ETON shall have the right to recoup thirty-five (35%) any such fees from initial profits prior to any profit sharing with LMW. Both Parties shall cooperate in the performance of the regulatory obligations and shall provide each other, in a timely manner (for the Annual Report this is defined as 40 days after the anniversary date for approval of the NDA or ANDA) with such information, assistance, documents and reports reasonably required to perform such obligations.

   c. Pre-IND Meeting. Within forty-five (45) days after the Effective Date, ETON will request a Pre-IND meeting with the FDA. LMW agrees to cooperate with ETON's requests for information required in preparation for the meeting and preparation of the briefing package.

   d. Bioequivalence Study. LMW shall be solely responsible for the coordination and management of the bioequivalence study, subject to ETON's written approval of the study design, protocols, clinical research organizations prior to initiation of the study. LMW shall be solely responsible for the cost of the bioequivalence study, except that ETON shall reimburse LMW for forty (40%) of the costs actually incurred by LMW in the performance of the study. The study shall be completed by no later than December 31, 2018.

   e. Quality Agreement. As soon as practicable following the Effective Date, but not later than ninety (90) days, the Parties shall enter into the Quality Agreement. The Quality Agreement shall be substantially similar to ETON's standard quality agreement, and shall contain provisions consistent with the provisions in this Agreement and such other provisions as otherwise required for compliance with cGMP and all other applicable FDA requirements.

4. Manufacturing and Supply.

   a. Manufacturer. The Product shall be manufactured by LM MANUFACTURING, LTD. ("LM"), exclusively for ETON in conformity with the applicable requirements and specifications (for both the API or the Product, as applicable) as set forth in this Agreement (including, but not limited to, the Specifications and Applicable Law). ETON shall be granted rights of inspection and audit over the manufacturing facility. LM shall be responsible for maintaining applicable governmental licenses and permits, including Finished Dosage Form facility fee, at its own expense. LM shall purchase raw materials and Components through vendors approved for the API and the Product by the FDA pursuant to the NDA or ANDA. LMW shall be responsible for ensuring that LM complies with the terms of this Agreement and delivers Product in conformance with the requirements of (i) all Applicable Law; (ii) cGMP; (iii) the Quality Agreement; and (iv) the Agreement. Any and all manufacturers manufacturing the Product or any component thereof must have received and continue to maintain satisfactory cGMP inspection status. Under no circumstances whatsoever, may the API or any Component of the Product manufactured under this Agreement be manufactured at a facility that fails to maintain the inspection status or requirements of this Agreement.

   b. Secondary Supply. If LM does not receive FDA approval by June 30, 2019 or if ETON believes LM will have issues meeting Product demand, ETON shall have the right to transfer manufacturing of the Product to an alternate manufacturer of its sole and exclusive choosing, however LMW will be informed about this within appropriate time. Any costs incurred by ETON for the qualification of a manufacturer pursuant to this section shall be deducted from any profit share or milestone payment owed to LMW pursuant to this Agreement.

   c. Purchase Orders. This Agreement applies to all Purchase Orders that ETON, and/or any of its current or future Affiliates, may place with LM for the purchase of Product. The terms and conditions of this Agreement including those presented in all exhibits attached hereto shall apply to any Purchase Order, regardless whether this Agreement or its terms and conditions are expressly referenced in such Purchase Order. Any term or condition set forth in (i) any Purchase Order; or (ii) any acknowledgment or sale document from LM that is inconsistent or not provided in this Agreement shall not be applicable to any orders for the Product placed by ETON during the Term, unless expressly agreed to by the Parties in writing. LM shall be deemed to have accepted a Purchase Order for which LM does not notify ETON in writing within seven (7) business days after its receipt, provided that LM may only reject such Purchase Order to the extent it is inconsistent with the terms of this Agreement. LM shall be deemed to have accepted all Purchase Orders that are consistent with this Agreement. Product will be delivered in the timeframe set forth in the applicable Purchase Order; provided, however, that: (a) if no timeframe is specified in the Purchase Order, Product will be delivered ninety (90) days after the Purchase Order date and (b) unless otherwise agreed by the Parties, any delivery date specified in a Purchase Order will not be earlier than ninety (90) days after the Purchase Order date.

d. No Minimum Orders or Forecasts. ETON shall not be subject to any minimum order requirements. Eton will be required to provide annual forecasts of upcoming Product purchases with six months' firm forecast.

e. Transfer Price. ETON shall pay to LM a transfer price equal to LM's actual direct costs to manufacture the product, including API, material, and direct labor costs (the "Transfer Price"). LM shall provide ETON with an itemized calculation of the Transfer Price. The initial Transfer Price is estimated at approximately twenty dollars $20.00 US per bottle.

f. Invoices. Except as mutually agreed by the Parties, LM will invoice ETON for the Transfer Price of Product purchased under this Agreement and any applicable freight costs owed for such Product. Payments are due within thirty (30) days after invoice receipt for Product purchased by ETON.

g. SMM Fees. ETON shall be entitled to compensation for managing the supply and marketing of the Product in the Territory (the "SMM Fee"), as follows:

- Fifteen percent (15%) of Net Sales realized in the first twelve (12) months following the Commercial Launch of the Product.

- For each subsequent twelve (12) month period thereafter:
  - Fifteen percent (15%) of Net Sales, for Net Sales between $0 and $15,000,000 US;
  - Twelve and one-half percent (12.5%) of Net Sales, for Net Sales between $15,000,001 and $30,000,000 US;
  - Ten percent (10%) of Net Sales, for Net Sales of greater than $30,000,000 US.

Notwithstanding the foregoing, in the event the parties launch an Authorized Generic of the Product ("AG"), the SMM Fee for such AG shall be seven and one-half (7.5%) of the Net Sales attributable to such AG for each twelve (12) month period, following the Commercial Launch of the AG.

5. Delivery and Acceptance.

a. Deliveries. Failure to deliver the Product of the quality and quantity in accordance with this Agreement or by the scheduled shipment date stated in the applicable Purchase Order shall, at the option of ETON, relieve it of any obligation to accept and pay for any of the Product which is not of proper quality or quantity (product not delivered or shorted) under such Purchase Order, as well as any undelivered shipments, if any. Any failure by ETON to exercise its option with respect to any shipment of the Product as set forth in this section shall not be deemed to constitute a waiver with respect to subsequent shipments.

b. Batch Certifications. LM or a duly authorized representative (CMO) shall conduct quality control tests on the API and the Product prior to shipment in accordance with all applicable laws, regulations and requirements set forth in the NDA/ANDA specifications, and all applicable test methods; (ii) at ETON's request, furnish samples of the API or Product to ETON; and (iii) deliver with each shipment of Product, a Certificate of Analysis for each Product lot included in a shipment in accordance with the Specifications.

c. Acceptance of Product.

(i) ETON may examine and test Product as it sees fit and may reject Product provided hereunder by LM if such Product is defective for any reason, adulterated or misbranded in any manner, or otherwise poses a threat of harm to the public (including, without limitation, by failing to meet the requirements of this Agreement, the Quality Agreement, any Applicable Law, the Specifications or the NDA/ANDA's requirements) (collectively, a "Product Defect"); provided, however that ETON shall give written notice to LM of its rejection of any Product hereunder, together with appropriate documentation for its decision (a "Rejection Notice"), within fifteen (15) days after ETON's receipt of shipment of such Product. The Rejection Notice shall specify the grounds for rejection. If such Rejection Notice is not received within fifteen (15) days after ETON's receipt of any Product, such Product shall be deemed to be accepted by ETON. However, any Product Defect that would not be discoverable upon a reasonable inspection of a Product (a "Hidden Defect") will not be deemed accepted by ETON at any time. As soon as possible but not exceeding the shelf life of any Product, if either Party becomes aware of a Hidden Defect in such Product, it will, within five (5) business days of becoming aware of such Hidden Defect, notify the other Party in writing about all Product involved (a "Hidden Defect Rejection Notice"). At ETON's discretion, any Product subject to a Hidden Defect shall be deemed rejected as of the date of any such Hidden Defect Rejection Notice.

(ii) LM may dispute a Rejection Notice or Hidden Defect Rejection Notice by providing written notice to ETON of the dispute within fifteen (15) days after receipt of such Rejection Notice or Hidden Defect Rejection Notice (as applicable), which notice from LM shall specify, in reasonable detail, the grounds for the dispute.

(iii) If a Rejection Notice or Hidden Defect Rejection Notice for any Product is not disputed by LM as set forth in this section or if, in the event of a rejection dispute between the Parties, the contract laboratory referred to below gives a decision in favor of ETON, then:

a. ETON may withhold all payment for the rejected Product;

b. Where payment for the rejected Product has been made, LM will promptly issue a full credit or pay a full refund (as selected by ETON) to ETON for the rejected Product;
c. LM will promptly pay to ETON any and all reasonable out-of- pocket costs and expenses resulting from the Product Defect, Hidden Defect or Product rejection, including but not limited to customer failure- to-supply penalties and destruction costs; and
d. LM will promptly supply ETON with conforming Product in replacement of the rejected Product.

(iv) If there is a dispute between the Parties with respect to the rejection of Product, the Parties will first seek to amicably resolve the dispute among themselves. If, after thirty (30) days, the Parties believe that the dispute cannot be amicably resolved, then the Parties shall mutually agree on a contract laboratory to conduct further testing of rejected Product in or order for the laboratory to determine whether the rejected Product meets the requirements for rejection set forth in this section. The Party whose conclusions are not borne out by the laboratory shall bear the cost of such testing. If the contract laboratory gives a decision in favor of LM, ETON shall promptly pay for the Product subject to the dispute, if such payment had not earlier been made; if the contract laboratory gives a decision in favor of ETON, LM shall immediately perform its obligations pursuant to this section. The decision of the contract laboratory, to the extent dispositive of a Product rejection dispute between the Parties, shall be binding upon the Parties with respect to such rejection dispute.

6. Commercialization, Marketing and Distribution.

a. ETON, its affiliates, or designated third-party marketing partner shall use reasonable commercial efforts consistent with normal business practices to develop and commercialize the Product in the Territory. ETON shall be responsible, in its sole and absolute discretion to direct the sale, marketing and promotional activities of the Product. Pricing, methods of distribution, contracting and any other decisions related to the sales and marketing of the Product shall be solely decided by ETON.

7. Intellectual Property.

a. Licensing. LMW grants ETON, its affiliates or designated marketing partner an exclusive, royalty-free license to any and all current and future intellectual property related to the Product in the Territory.

b. Branding of Product.

(i) LMW shall label and package all Product in accordance with the respective labeling approved by ETON and in accordance with Applicable Laws. Once approved by ETON, LMW will not change in any manner any labeling of any Product manufactured by LM for ETON without the prior written consent of ETON.

(ii) ETON's Insignia shall be affixed to the Product as directed by ETON. All related sales brochures, marketing materials, and packaging shall only bear ETON's Insignia as directed by ETON.

(iii) ETON shall be responsible for submission of all marketing and promotional materials utilized by either Party to FDA as required by Applicable Law.

(iv) LMW grants to ETON during the Term a non-exclusive, indivisible, revocable and terminable license, without the right to sublicense, to use the LMW Insignia in the Territory as specifically directed by ETON in writing, and only to the extent necessary to label and brand the Product and related sales brochures, marketing materials, and packaging pursuant to ETON's specifications, and for no other purposes.

(v) Notwithstanding any of the provisions of this Agreement, LMW shall not at any time do anything or act in any way that would or might adversely affect the value or validity of any ETON Insignia or other Intellectual Property Rights belonging to ETON. LMW shall immediately notify ETON in writing upon becoming aware of any infringement, misappropriation or imitation of any Intellectual Property Rights of ETON or of any facts that LMW believes might constitute infringement, misappropriation or imitation thereof. All uses of ETON's Insignia shall inure exclusively to ETON's sole benefit.

8. Non-Compete.

a. During the Term of this Agreement, and for a period of five (5) years thereafter, LMW will not research, develop, manufacture, file, sell, market, or distribute any competitive product, nor will LMW directly or indirectly assist any other person or entity in carrying out any such activities. "Competitive Product" means any product containing the same API as the Product(s) which is marketed and sold for the oral route of administration.

9. Confidentiality.

a. The Receiving Party shall keep the Disclosing Party's Confidential Information confidential and shall not directly or indirectly, use, divulge, publish or otherwise disclose or allow to be disclosed any aspect of the Disclosing Party's Confidential Information, except (i) with the Disclosing Party's prior written consent, (ii) as permitted by this Agreement or (iii) to the Receiving Party's Representatives (as defined below) who need to know such Confidential Information for the purposes of this Agreement, provided that prior to such disclosure to such a Representative, the Representative shall be bound by obligations of confidentiality to the Receiving Party at least as restrictive as those of this Agreement and shall be advised of the confidential nature of such information. The Receiving Party will be responsible for any breach of this section resulting from the conduct of its Representatives. "Representative" of a Party means such Party's Affiliates and its and their officers, directors, employees, agents and advisors. Upon written request by the Disclosing Party, the Receiving Party shall promptly return to the Disclosing Party or, if elected by the Receiving Party, destroy, any Confidential Information of the Disclosing Party in the possession or control of the Receiving Party or its Representatives, provided that the Receiving Party may retain one (1) copy of such information to be used solely for determining the rights of the Parties hereunder or as required by Applicable Law and may retain copies thereof in its information technology systems (all of which retained Confidential Information will remain subject to the terms and conditions of this Agreement). Notwithstanding anything to contrary herein, Confidential Information of the Disclosing Party shall not include any information that falls within any of the following exceptions, provided the Receiving Party produces credible written evidence to establish or otherwise establishes that such information:

(i) is or becomes part of the public domain without breach of this Agreement by the Receiving Party or any of its Representatives;
(ii) is independently developed or discovered by or for the Receiving Party without use of or reference to Confidential Information of the Disclosing Party;
(iii) is received from a third party who lawfully acquires such information without an obligation of confidentiality, and without breach of this Agreement by the Receiving Party; or
(iv) was in the Receiving Party's possession without an obligation of confidentiality to the Disclosing Party prior to the disclosure by the Disclosing Party.

b. If the Receiving Party or any of its Representatives becomes required pursuant to Applicable Law, any rule or regulation (including, without limitation, subpoena, civil investigative demand, compulsory process or other legal requirement) to disclose any Confidential Information of the Disclosing Party, then (i) the Receiving Party will promptly notify the Disclosing Party in writing thereof and will cooperate with the Disclosing Party, at the Disclosing Party's expense, in seeking a protective order or confidential treatment and (ii) the Receiving Party and its Representatives may disclose such Confidential Information to the extent so required.

c. The Disclosing Party would be irreparably injured by a breach of this section by the Receiving Party, and such a breach would not be compensable in money damages. Accordingly, in addition to any other rights and remedies of the Disclosing Party pursuant to this Agreement and Applicable Law, the Disclosing Party shall be entitled to seek injunctive and other equitable relief with respect to any breach or threatened breach of this section.

d. The rights and obligations of the Parties pursuant to this section will terminate five (5) years after the termination or expiration of this Agreement.

10. Insurance. Each Party shall obtain, at its expense, the following minimum insurance coverages during the term of this Agreement and for five (5) years thereafter:

a. For ETON, the following insurance coverages:

(i) Worker's compensation insurance as required by applicable law;
(ii) Product liability insurance with respect to the Product with a minimum of Five Million Dollars ($5,000,000) per occurrence and Five Million Dollars ($5,000,000) annual aggregate for bodily injury and property damage;
(iii) Commercial general liability insurance with a minimum of Five Million Dollars ($5,000,000) per occurrence and Five Million Dollars ($5,000,000) annual aggregate; and
(iv) Property insurance (sufficient to fully cover the cost of replacement), through the designated freight carrier or otherwise, on all of the Products at all times until receipt by ETON.

b. LMW shall be liable for any Product defects, to the extent of the maximum value of the defective goods or the aggregate amount payable pursuant to this Agreement, whichever is greater.

c. Limitation of Liability.

NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, WHETHER FORESEEABLE OR NOT, THAT ARE IN ANY WAY RELATED TO THIS AGREEMENT.

11. Indemnification.

a. LMW Indemnification Obligations. LMW shall indemnify, defend and hold harmless ETON, and its Affiliates, and their respective officers, directors, shareholders, employees, agents and representatives (collectively "ETON Indemnitees") for, from and against all third-party claims, damages, liabilities, losses and other expenses, including but not limited to reasonable attorneys' fees and costs (collectively, "Third Party Claims"), whether or not a lawsuit or other proceeding is filed, to the extent arising out of or caused by (i) any dispute or claim that the Product, its design or any of its elements, or any LM manufacturing processes or methods employed or to be employed by or on behalf of LM, infringe, misappropriate or violate any third party's Intellectual Property Rights; (ii) product liability claims, injury to or death of persons or damage to property that may have been caused, or that may be alleged to have been caused, directly or indirectly, by LMW, LM or any the manufacturing, storage or transportation processes or methods employed or to be employed at a manufacturing facility used by or on behalf of, LMW, LM, or any Affiliate thereof, any subcontractor of LMW, LM or any of their Affiliates, or any of their respective employees or agents; (iii) any defect in the Product, its design, manufacture, or other failure of the Product to comply with its respective Specifications, Applicable Law (including, without limitation, cGMPs) or the other requirements of this Agreement, including but not limited to any costs associated with Product recalls; (iv) any negligent act or omission, recklessness, willful misconduct or fraud of LMW, LM, or any of their respective agents, or subcontractors; (v) any breach of any representation, warranty, or covenant of this Agreement by LMW, whether resulting from the conduct of LMW, LM or otherwise; (vi) LMW's or LM's failure to fully conform to all Applicable Laws, ordinances, rules and regulations which affect the Product, its use, or any part thereof or that are otherwise applicable to LMW or LM (including, without limitation, cGMPs), or (vii) any claim of a third party that any right granted to ETON under this Agreement is in conflict with any of the rights granted to such third party or otherwise infringes, conflicts with, breaches or results in a default under any agreement to which such third party is or claims to be entitled; provided, however, that LMW shall have no such obligation to indemnify, defend or hold harmless with respect to any Third Party Claim to the extent such Third Party Claim is caused by the recklessness, willful misconduct or fraud of any ETON Indemnitee, or ETON's breach of this Agreement.

b. ETON Indemnification Obligations. ETON shall indemnify, defend and hold harmless LMW, and its affiliates, and their respective officers, directors, shareholders, employees, agents and representatives (collectively "LMW Indemnitees") for, from and against all Third Party Claims, whether or not a lawsuit or other proceeding is filed, to the extent arising out of or caused by (i) any dispute or claim that any of ETON Insignia or any of their elements infringe or violate any third party's Intellectual Property Rights; (ii) any negligent act or omission, recklessness, willful misconduct or fraud of ETON, its agents, or Affiliates; (iii) any breach of any representation, warranty, or covenant of this Agreement by ETON; or (iv) ETON's failure to fully conform to Applicable Laws which affect the Product, its use, or any part thereof or that are otherwise applicable to ETON; provided, however, that ETON shall have no such obligation to indemnify, defend or hold harmless with respect to any Third Party Claim to the extent such Third Party Claim is caused by the recklessness, willful misconduct or fraud of any LMW Indemnitee, or LMW's breach of this Agreement.

12. Representations and Warranties.

a. ETON Representations and Warranties. ETON represents, warrants and covenants: (i) that it has the full power, right and authority to execute and deliver this Agreement and that it shall use commercially reasonable best efforts to perform its obligations hereunder; (ii) that it will assign to its performance of this Agreement professional personnel, qualified to perform the process procedures consistent with the technical requirements of this Agreement; (iii) that none of the ETON personnel to be assigned to this Agreement have or shall have been subject to debarment under the United States Generic Drug Enforcement Act or any other penalty or sanction by FDA; and (iv) ETON will comply (and will cause any agents, subcontractors or other third parties conducting business relating to the ANDA on ETON's behalf to comply) with the requirements of GDUFA that are applicable to ETON.

b. LMW Representations and Warranties. LMW represents, warrants and covenants: (i) that it has the full power, right and authority to execute and deliver this Agreement and that it shall use commercially reasonable best efforts to perform its obligations hereunder; (ii) that it will assign to its performance of this Agreement professional personnel, qualified to perform the process procedures consistent with the technical requirements of this Agreement; (iii) that none of the LMW personnel to be assigned to this Agreement have or shall have been subject to debarment under the United States Generic Drug Enforcement Act or any other penalty or sanction by FDA or under any U.S. Federal or State healthcare program; (iv) that it will manufacture and supply the Product in conformity with, and otherwise perform its obligations hereunder in accordance with, and it will cause the CMO to perform in accordance with, all Applicable Laws (including but not limited to cGMP and all applicable FDA regulatory requirements), the Quality Agreement, this Agreement and generally accepted professional standards; (v) that all rights granted to ETON under this Agreement will not conflict with those granted to any third-parties; (vi) that all data, information, results of experimentation and testing incorporated by LMW into an NDA or ANDA prepared in accordance with this Agreement are accurate and complete in all respects; and (vii) that LMW will comply (and will cause CMO, and any agents, subcontractors or other third parties conducting business relating to the ANDA on LMW's behalf to comply) with the requirements of GDUFA that are applicable to LMW, including, without limitation, all provisions relating to self-identification. LMW will ensure the payment of all applicable GDUFA facility and DMF fees, whether payable by LMW or CMO, its agent(s) or suppliers.

c. Product Warranties. LMW represents, warrants and covenants: (i) that the Product shall be free from defect in workmanship and materials; (ii) that the Product shall meet its Specifications; (iii) that, upon delivery of a Product and during such time as such Product was under LMW's control, the Product will be in conformity with Applicable Law and the Quality Agreement, and shall not be adulterated, misbranded, misused, contaminated, tampered with or otherwise altered, mishandled, or subjected to negligence; and (iv) that title to all Products delivered hereunder shall pass to ETON concurrently with risk of loss, free and clear of all liens, encumbrances and other adverse claims. LMW additionally warrants that the Product supplied hereunder shall only be built using Components purchased from vendors approved by FDA pursuant to the ANDA.

13. Further development of the product;

    Both parties may agree to further develop the product for new indications/usage and in such case, both parties will agree on further licensing agreement.

14. Term and Termination.

    a. Term. This Agreement shall commence on the Effective Date and shall continue for a period of ten (10) years from the first commercial sale of the Product in the Territory. Agreement shall auto-renew for two years' terms unless either party provides written notification of termination at least 12 months prior to expiration of the then current term.

    b. Termination.

        Material Breach. In the event of a material breach of this Agreement by either Party, the non- breaching Party may provide written notice of such breach to the breaching Party, including a description of the breach, and indicating the non-breaching Party's intent to terminate this Agreement. The breaching Party will have sixty (60) days from its receipt of such notice to cure the breach, provided the breach is capable of being cured within the sixty (60) day period. If the breaching Party fails to cure the breach within such period, then unless otherwise agreed by the non-breaching Party, this Agreement will terminate on the date that is sixty (60) days following the breaching Party's receipt of the notice of breach from the non- breaching Party. If the breach is not capable of being remedied within sixty (60) days, the Agreement terminates upon the written notice.

        Bankruptcy or Insolvency. If either party shall (a) become bankrupt or insolvent, (b) file for a petition thereof, (c) make an assignment for the benefit of creditors, or (d) have a receiver appointed for its assets, which appointment shall not be vacated within sixty (60) days after the filing, then the other party shall be entitled to terminate this Agreement forthwith by written notice to such party.

        Applicable Law. If the manufacture, distribution or sale of the Product in the Territory would materially contravene any existing or new applicable law which cannot be brought into compliance with such law within a reasonable period of time following a notice of non-compliance or violation. Or a violation by any party of a trade control law and/or anti-corruption law.

Product Deficiencies. If there is a negative outcome of a facilities cGMP audit where the Product is manufactured for which deficiencies are not cured within three (3) months.

Eton's Option. ETON may, in its sole and absolute discretion, terminate this Agreement at any time for regulatory or commercial reasons.

c. *Effect of Termination*. Termination of this Agreement shall not affect a Party's entitlement to profit sharing or milestone payments that accrue prior to the date of termination or that accrue after termination with respect to Product supplied hereunder prior to the date of termination, provided that the uncured breach, status or actions of the Party causing such termination do not impair its entitlement to such profit sharing or milestone payments. Upon termination of this agreement for any reason, ETON shall retain sole and exclusive ownership of the NDA/ANDA filing.

15. General Terms.

a. Relationship of Parties. The relationship between LMW, LM and ETON, with respect to this Agreement, is only that of independent contractors notwithstanding any activities set forth in this Agreement. Neither Party is the agent or legal representative of the other Party, and neither Party has the right or authority to bind the other Party in any way. This Agreement creates no relationship as partners or a joint venture, and creates no pooling arrangement.

b. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York, U.S.A., without reference to its conflict of laws principles.

c. Resolution of Disputes. Any and all disputes or claims arising or out of this Agreement shall be litigated exclusively before a court of the State of New York, U.S.A. or, if subject matter jurisdiction exists, the United States District Court for the District of New York. Each party hereto hereby irrevocably and unconditionally consents to the exclusive personal jurisdiction and service of, and venue of, any such court, and further irrevocably and unconditionally waives and agrees not to plead or claim that any action, lawsuit or proceeding brought in any such court has been brought in an inconvenient forum. Any judgment issued by such a court may be enforced in any court having jurisdiction.

d. Assignment. Neither party shall assign its rights or obligations under this Agreement without the prior written consent of the other party, which shall not be unreasonably withheld or delayed; provided, however, that a party may, without such consent, assign this Agreement and its rights and obligations hereunder (a) to any Affiliate, or (b) in connection with the transfer or sale of all or substantially all of its business to which this Agreement relates, or in the event of its merger, consolidation, change in control or similar transaction. Any permitted assignee shall assume all obligations of its assignor under this Agreement.

e. Counterparts. This Agreement may be executed in several counterparts that together shall be originals and constitute one and the same instrument.

f. Waiver. The failure of any Party to enforce any of its rights hereunder or at law shall not be deemed a waiver of any of its rights or remedies against another Party, unless such waiver is in writing and signed by the Party to be charged. No such waiver shall be deemed a waiver of any subsequent breach or default of the same or similar nature or any other breach or default by such other Party.

g. Severability. If any provision of this Agreement, or part thereof, is declared by a court of competent jurisdiction to be invalid, void or unenforceable, each and every other provision, or part thereof, shall nevertheless continue in full force and effect.

h. Notices. All notices or communications given pursuant to this Agreement shall be in writing, if to ETON, addressed to the attention of CEO, Eton Pharmaceuticals, Inc., 21925 Field Parkway, Suite 235, Deer Park, IL 60010, and if to LMW to the attention of Mohammed Arsalaan Khan, Liqmeds Worldwide, Ltd., 65 Delamere Road, Hayes, Middlesex, United Kingdom, UB4 0NN, and shall be: (a) hand delivered, (b) sent by prepaid express courier service, or (c) sent by electronic mail (e-mail) or facsimile transmission. A Party may change its address for the receipt of notices and communications hereunder by providing the other Party with written notice thereof given in accordance with this section. All notices and other communications shall be deemed given when received.

i. Further Assurances. The Parties agree to execute such additional documents and perform such acts as are reasonably necessary to effectuate the intent of this Agreement.

j. Compliance With Laws. Each Party agrees to comply with all Applicable Laws, including, without limitation, GDUFA or PDUFA, cGMPs and state licensing laws, in its performance under this Agreement.

k. Entire Agreement. This Agreement, including all exhibits and attachments, constitutes the entire agreement between the Parties regarding the subject matter hereof, and supersedes all prior or contemporaneous understandings or agreements regarding the subject matter hereof, whether oral or written. This Agreement shall be modified or amended only by a writing signed by both ETON and LMW.

l. Authority. The parties executing this Agreement on behalf of ETON and LMW represent and warrant that they have the authority from their respective governing bodies to enter into this Agreement and to bind their respective companies to all the terms and conditions of this Agreement.

m. Force Majeure. Neither Party shall be liable for delays in its performance caused by events beyond its control, such as fires, floods, labor shortages, strikes, epidemics, computer virus, earthquakes, riots, acts of terror, acts of God, storms, acts of civil or military authority or similar occurrences, provided the affected Party gives the other Party written notice of such event within three (3) business days of its occurrence. Such notice shall state the estimated duration of such event and the cause thereof and the affected Party shall use commercially reasonable efforts to work around such event beyond its control.

n. Headings and Construction. No rule of construction will be applied to the disadvantage of a party because that party was responsible for the preparation of this Agreement or any part of this Agreement. The Article and Section headings in this Agreement are for convenient reference only, and will be given no substantive or interpretive effect. With respect to all terms used in this Agreement, words used in the singular include the plural and words used in the plural include the singular. The word 'including' means including without limitation, and the words 'herein', 'hereby', 'hereto' and 'hereunder' refer to this Agreement as a whole. Unless the context otherwise requires, references found in this Agreement: (i) to Articles and Sections mean the Articles and Sections of this Agreement, as amended, supplemented and modified from time to time; (ii) to an agreement, instrument or other document means such agreement; (iii) to an agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time, to the extent provided by the provisions thereof and by this Agreement; and (iv) to a statute or a regulation mean such statute or regulation as amended from time to time.

o. Drug Supply Chain Security Act. The Parties agree to strictly comply with the Drug Supply Chain Security Act, and all other laws related to the subject matter of this Agreement.

IN WITNESS WHEREOF, the Parties have hereunto set forth their hands and seals as of the Effective Date above.

On behalf of:
ETON PHARMACEUTICALS, INC.

/s/ Sean Brynjelsen
By: Sean Brynjelsen
Its: President

On behalf of:
LIQMEDS WORLDWIDE LTD.

/s/ Mohammed Arsalaan Khan
By: Mohammed Arsalaan Khan
Its: Director

On behalf of:
LM MANUFACTURING, LTD.

/s/ Mohammed Arsalaan Khan
By: Mohammed Arsalaan Khan
Its: Director

Exhibit 21.1

LIST OF ETON PHARMACEUTICALS, INC. SUBSIDIARIES

[NONE]

Exhibit 23.1

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We hereby consent to the use in this Registration Statement on Form S-1 of Eton Pharmaceuticals, Inc. of our report dated May 18, 2018 relating to the financial statements of Eton Pharmaceuticals, Inc., which appears in such Registration Statement. We also consent to the reference to us under the heading "Experts" in such Registration Statement.

/s/ KMJ Corbin & Company LLP

Costa Mesa, California
August 10, 2018