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

Form 10-K

(Mark One)

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

For the fiscal year ended December 31, 2021

or

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

From the transition period from __ to __

Commission file number: 000-50633

CYTOKINETICS, INCORPORATED

(Exact name of registrant as specified in its charter)

Delaware	**94-3291317**
(State or other jurisdiction of incorporation or organization)	*(I.R.S. Employer Identification No.)*
350 Oyster Point Boulevard South San Francisco, CA	**94080**
(Address of principal executive offices)	*(Zip Code)*

(650) 624-3000
(Registrant's telephone number, including area code)

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	**Trading symbol**	**Name of each exchange on which registered**
Common Stock, $0.001 par value	**CYTK**	**The Nasdaq Global Select Market**

Securities registered pursuant to Section 12(g) of the Act:
None

Indicate by check mark if the Registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ☑ No ☐

Indicate by check mark if the Registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes ☐ No ☑

Indicate by check mark whether the Registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☑ No ☐

Indicate by check mark whether the Registrant has submitted electronically Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§ 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes ☑ No ☐

Indicate by check mark whether the Registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer ☑ Accelerated filer ☐ Non-accelerated filer ☐ Smaller reporting company ☐
Emerging growth company ☐

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

Indicate by check mark whether the registrant has filed a report on and attestation to its management's assessment of the effectiveness of its internal control over financial reporting under Section 404(b) of the Sarbanes-Oxley Act (15 U.S.C.7262(b)) by the registered public accounting firm that prepared or issued its audit report. ☑

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

As of 6/30/2021, the last business day of the Registrant's most recently completed second fiscal quarter, the aggregate market value of common stock held by non-affiliates of the Registrant was approximately $1,443.0 million (based on a closing price of $19.79 per share as reported by the Nasdaq Global Select Market on 6/30/2021). For purposes of this calculation, shares of common stock beneficially owned by the Registrant's directors, officers and certain stockholders as of 6/30/2021 have been excluded in that such persons may be deemed affiliates. The determination of affiliate status is not necessarily a conclusive determination for other purposes. The Registrant has no non-voting common equity.

As of February 22, 2022, the number of shares outstanding of the Registrant's common stock, par value $0.001 per share, was 84,856,037 shares.

DOCUMENTS INCORPORATED BY REFERENCE

Portions of the Registrant's Proxy Statement for its 2021 Annual Meeting of Stockholders to be filed with the Securities and Exchange Commission, no later than 120 days after the end of the fiscal year, are incorporated by reference into Part III of this Annual Report on Form 10-K.

Auditor Firm Id: 42 Auditor Name: Ernst & Young LLP Auditor Location: Redwood City, California

CYTOKINETICS, INCORPORATED

FORM 10-K

YEAR ENDED DECEMBER 31, 2021

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FORWARD LOOKING STATEMENTS
PRIVATE SECURITIES LITIGATION REFORM ACT OF 1995

This report contains forward-looking statements indicating expectations about future performance and other forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended (the "Securities Act"), Section 21E of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and the Private Securities Litigation Reform Act of 1995, that involve risks and uncertainties. We intend that such statements be protected by the safe harbor created thereby. Forward-looking statements involve risks and uncertainties and our actual results and the timing of events may differ significantly from the results discussed in the forward-looking statements. Examples of such forward-looking statements include, but are not limited to, statements about or relating to:

- guidance concerning revenues, research and development expenses and general and administrative expenses for 2022;
- the sufficiency of existing resources to fund our operations for at least the next 12 months;
- our capital requirements and needs for additional financing;
- our expectations as to our cash utilization for 2022 and in any subsequent period;
- the initiation, design, conduct, enrollment, progress, timing and scope of clinical trials and development activities for our drug candidates conducted by ourselves or our partners, including the anticipated timing for initiation of clinical trials, including SEQUOIA-HCM, our planned Phase 3 clinical trial of aficamten (also known as CK-274) in patients with oHCM and COURAGE-ALS, our Phase 3 clinical trial of reldesemtiv in patients with ALS, anticipated rates of enrollment for clinical trials and anticipated timing of results or interim analyses becoming available or being announced from clinical trials;
- the results from the clinical trials, the non-clinical studies and chemistry, manufacturing, and controls activities of our drug candidates and other compounds, and the significance and utility of such results; anticipated interactions with regulatory authorities;
- our and our partners' plans or ability to conduct the continued research and development of our drug candidates and other compounds;
- the timing and likelihood of regulatory approval for omecamtiv mecarbil or any of our other drug candidates;
- our expected roles in research, development or commercialization under our strategic alliances with our partners and collaborators;
- the properties and potential benefits of, and the potential market opportunities for, our drug candidates and other compounds, including the potential indications for which they may be developed;
- the sufficiency of the clinical trials conducted with our drug candidates to demonstrate that they are safe and efficacious;
- our receipt of milestone payments, royalties, reimbursements and other funds from current or future partners under strategic alliances;
- our ability to continue to identify additional potential drug candidates that may be suitable for clinical development;
- market acceptance of our drugs;
- changes in third party healthcare coverage and reimbursement policies;
- our plans or ability to commercialize drugs, with or without a partner, including our intention to develop sales and marketing capabilities;
- the focus, scope and size of our research and development activities and programs;
- the utility of our focus on the biology of muscle function, and our ability to leverage our experience in muscle contractility to other muscle functions;
- our ability to protect our intellectual property and to avoid infringing the intellectual property rights of others;
- future payments and other obligations under loan, lease agreements, and revenue interest agreement and the convertible notes;
- potential competitors and competitive products;
- retaining key personnel and recruiting additional key personnel; the potential impact of recent accounting pronouncements on our financial position or results of operations; and
- the continuing impact of the COVID-19 pandemic on our research and development activities and business operations.

Such forward-looking statements involve risks and uncertainties, including, but not limited to:

- decisions by Ji Xing Pharmaceuticals Limited ("Ji Xing") with respect to the timing, design and conduct of development and commercialization activities for aficamten or omecamtiv mecarbil in the People's Republic of China (including the Hong Kong SAR and Macau SAR) (together "China") and Taiwan;
- our ability to meet any of the conditions for disbursement and our receipt of any loan disbursements under the Development Funding Loan Agreement, dated January 7, 2022 (the "RP Loan Agreement"), between us and Royalty Pharma Development Funding, LLC ("RPDF");
- our ability to meet any of the conditions for disbursement of additional sale proceeds under the Revenue Participation Right Purchase Agreement, dated January 7, 2022 (the "RP Aficamten RPA"), between us and Royalty Pharma Investments 2019 ICAV ("RPI ICAV");
- decisions by the U.S. Food and Drug Administration (the "FDA") or other regulatory authorities to approve our new drug application ("NDA") for omecamtiv mecarbil by November 30, 2022 (target PDUFA action date) or otherwise, or to condition such approval on the approval of a dosage selection test for the personalized dose optimization of omecamtiv mecarbil in patients, our ability or the ability of any third party to develop or commercialize such a dosage selection test, or the timing, prospects, process or likelihood of the approval of such a dosage selection test;
- our ability to enroll patients in our clinical trials by any particular date;
- our ability to complete our clinical trials by any particular date;
- our ability to enter into strategic partnership agreements for any of our programs on acceptable terms and conditions or in accordance with our planned timelines;
- our ability to obtain additional financing on acceptable terms, if at all;
- our receipt of funds and access to other resources under our current or future strategic alliances, in the development, testing, manufacturing or commercialization of our drug candidates or slower than anticipated patient enrollment, in our or partners' clinical trials, or in the manufacture and supply of clinical trial materials;
- failure by our contract research organizations, contract manufacturing organizations and other vendors to properly fulfill their obligations or otherwise perform as expected;
- results from non-clinical studies that may adversely impact the timing or the further development of our drug candidates and other compounds;
- the possibility the FDA or foreign regulatory agencies may delay or limit our or our partners' ability to conduct clinical trials or may delay or withhold approvals for the manufacture and sale of our products;
- changing standards of care and the introduction of products by competitors or alternative therapies for the treatment of indications we target that may limit the commercial potential of our drug candidates;
- difficulties or delays in achieving market access, reimbursement and favorable drug pricing for our drug candidates and the potential impacts of health care reform;
- changes in laws and regulations applicable to drug development, commercialization or reimbursement;
- the uncertainty of protection for our intellectual property, whether in the form of patents, trade secrets or otherwise;
- potential infringement or misuse by us of the intellectual property rights of third parties;
- activities and decisions of, and market conditions affecting, current and future strategic partners;
- accrual information provided by and performance of our contract research organizations ("CROs"), contract manufacturing organizations ("CMOs"), and other vendors;
- potential ownership changes under Internal Revenue Code Section 382; and
- the timeliness and accuracy of information filed with the U.S. Securities and Exchange Commission (the "SEC") by third parties.

In addition, such statements are subject to the risks and uncertainties discussed in the "Risk Factors" section and elsewhere in this document. Such statements speak only as of the date on which they are made, and, except as required by law, we undertake no obligation to update any forward-looking statement to reflect events or circumstances after the date on which the statement is made or to reflect the occurrence of unanticipated events. New factors emerge from time to time, and it is not possible for us to predict which factors will arise. In addition, we cannot assess the impact of each factor 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.

SUMMARY OF PRINCIPAL RISK FACTORS

This summary briefly states the principal risks and uncertainties facing our business that could affect our common stock, which are only a select portion of those risks. A more complete statement of those risks and uncertainties is set forth in the Section 1A "Risk Factors" of this report. This summary is qualified in its entirety by that more complete statement. You should carefully read the entire statement and "Risk Factors" when considering the risks and uncertainties as part of your evaluation of an investment in our common stock.

- ***Notwithstanding GALACTIC-HF having met its primary efficacy endpoint and the FDA has accepted our NDA for filing, there is no guarantee that the FDA or any other regulatory authority will approve omecamtiv mecarbil.***

In January 2022, we announced that the FDA had accepted our NDA for omecamtiv mecarbil for the treatment of heart failure with HFrEF for filing. The pivotal clinical trial on which our NDA was based, GALACTIC-HF, demonstrated a statistically significant effect of treatment with omecamtiv mecarbil to reduce risk of the primary composite endpoint of cardiovascular death or heart failure events (heart failure hospitalization and other urgent treatment for heart failure) compared to placebo in patients treated with standard of care (HR: 0.92; 95% CI: 0.86, 0.99, p-0.025). The trial results, however, showed that no secondary endpoints were met. In particular, no reduction in the secondary endpoint of time to cardiovascular death was observed, and the KCCQ total symptom score by randomization setting did not meet the significance threshold of P=0.002 based upon the multiplicity control testing procedure. No assurances can be given that the primary endpoint results of GALACTIC-HF alone will be deemed sufficiently safe or efficacious to warrant approval by the FDA or any other regulatory authority. Although supplemental analyses showed that omecamtiv mecarbil potentially has a greater treatment effect in certain subgroups of trial patients and the FDA has accepted our NDA for filing, no assurance can be given that the FDA or any other regulatory authority will consider any such subgroup analysis as the basis for an approval of omecamtiv mecarbil without requiring additional clinical trials or that FDA will ultimately approve omecamtiv mecarbil for the treatment of HFrEF based on our NDA as accepted for filing.

- ***Clinical trials may fail to demonstrate the desired safety and efficacy of our drug candidates, including aficamten and reldesemtiv, which could prevent or significantly delay completion of clinical development and regulatory approval.***

Prior to receiving approval to commercialize any of our drug candidates, we or our partners must adequately demonstrate to the satisfaction of FDA and foreign regulatory authorities that the drug candidate is sufficiently safe and effective with substantial evidence from well-controlled clinical trials. We or our partners will need to demonstrate efficacy in clinical trials for the treatment of specific indications and monitor safety throughout the clinical development process and following approval. None of our drug candidates have yet met the safety and efficacy standards required for regulatory approval for commercialization and they may never do so.

- ***If we encounter difficulties enrolling patients in our clinical trials, including COURAGE-ALS or SEQUOIA-HCM, our clinical development activities could be delayed or otherwise adversely affected.***

The timely completion of clinical trials in accordance with their protocols depends, among other things, on our ability to enroll a sufficient number of patients who remain in the trial until its conclusion. We may experience difficulties in patient enrollment in clinical trials for a variety of reasons, including competing clinical trials and the ongoing COVID-19 pandemic.

- ***The failure to successfully develop, validate and obtain regulatory clearance or approval of a dosage selection test for an assay for plasma concentrations of omecamtiv mecarbil could delay or harm our development and commercialization strategy for omecamtiv mecarbil.***

We are pursuing the development and/or usage of a dosage selection test to be used for personalized dose optimization of omecamtiv mecarbil and, if required by FDA or other regulatory authorities, in order to obtain marketing approval of omecamtiv mecarbil. In the event we do not develop an assay acceptable to the FDA or other regulatory authorities and any such authorities require a dosage selection test as a condition to regulatory approval of omecamtiv mecarbil, our ability to obtain or receive marketing approval for omecamtiv mecarbil may be significantly delayed or may not be obtainable at all.

- ***We currently are building sales and marketing capabilities but do not possess all these capabilities at this time. If we are unable to enter into or maintain strategic alliances with marketing partners or to fully develop our own sales and marketing capabilities, we may not be successful in commercializing omecamtiv mecarbil or our other potential drugs.***

To effectively commercialize our drugs, we will need to establish and/or expand our own specialized sales force and marketing organization with technical expertise and supporting manufacturing and distribution capabilities. Developing such an organization is expensive and time-consuming and could delay a product launch.

In relation to omecamtiv mecarbil specifically, prior to Amgen's notification of its election to terminate the Amgen Agreement, we expected that, consistent with the terms of such agreement, Amgen would bear primary operational and financial responsibility for the sales, marketing, manufacturing and distribution activities related to the product launch and commercialization of omecamtiv mecarbil. As a result of the termination of the Amgen Agreement, we must now build and/or expand our capabilities without Amgen's operational or financial support, which will result in significantly higher costs to us than what we had expected prior to Amgen's notification of its election to terminate the Amgen Agreement, and we may never be able to successfully build and/or expand our commercialization capabilities to fully substitute the capabilities of Amgen of which we were reliant upon. Moreover, as a result of Servier's notification of its election to terminate the Servier Agreement, we will need to seek a replacement partner in Europe with the expertise and resources to successfully launch and commercialize omecamtiv mecarbil in Europe or to establish our own commercial capabilities in Europe at our own cost and effort.

- ***We depend on CROs to conduct our clinical trials and have limited control over their performance. If these CROs do not successfully carry out their contractual duties or meet expected deadlines, or if we lose any of our CROs, we may not be able to obtain regulatory approval for or commercialize our product candidates on a timely basis, if at all.***
- ***We have no manufacturing capacity and depend on contract manufacturers to produce our clinical trial materials, including our drug candidates, and anticipate continued reliance on contract manufacturers for the development and commercialization of our potential drugs.***
- ***Our success depends substantially upon our ability to obtain and maintain intellectual property protection relating to our drug candidates, compounds and research technologies.***
- ***If physicians and patients do not accept our drugs, we may be unable to generate significant revenue, if any.***

Even if our drug candidates obtain regulatory approval, the resulting drugs, if any, may not gain market acceptance among physicians, healthcare payors, patients and the medical community. Even if the clinical safety and efficacy of drugs developed from our drug candidates are established for purposes of approval, physicians may elect not to recommend these drugs for a variety of reasons.

- ***The commercial success of our products depends on the availability and sufficiency of third-party payor coverage and reimbursement.***

Patients in the United States and elsewhere generally rely on third-party payors to reimburse part or all of the costs associated with their prescription drugs. Accordingly, market acceptance of our products is dependent on the extent to which third-party coverage and reimbursement is available from government health administration authorities (including in connection with government healthcare programs, such as Medicare and Medicaid in the United States), private healthcare insurers and other healthcare funding organizations. Significant uncertainty exists as to the coverage and reimbursement status of any products for which we may obtain regulatory approval.

- ***We have a history of significant losses and may not achieve or sustain profitability and, as a result, you may lose part or all of your investment.***
- ***We will need substantial additional capital in the future to sufficiently fund our operations.***

We have consumed substantial amounts of capital to date, and our operating expenditures will increase over the next several years if we expand our research and development activities and expand our organization to prepare for commercialization of any approved drug. We have funded our operations and capital expenditures with proceeds primarily from private and public sales of our equity securities, royalty monetization agreements, revenue interest agreements, strategic alliances, long-term debt, other financings, interest on investments and grants. We believe that our existing cash and cash equivalents, short-term investments and interest earned on investments should be sufficient to meet our projected operating requirements for at least the next 12 months. We have based this estimate on assumptions that may prove to be wrong, and we could utilize our available capital resources sooner than we currently expect. Because of the numerous risks and uncertainties associated with the development of our drug candidates and other research and development activities, including risks and uncertainties that could impact the rate of progress of our development activities, we are unable to estimate with certainty the amounts of capital outlays and operating expenditures associated with these activities.

- ***We may not be entitled to obtain additional loan disbursements under the RP Loan Agreement or the RP Aficamten RPA.***

Together these agreements make available to us up to $150.0 million in revenue interest sale proceeds under the RP Aficamten RPA and up to $300.0 million in loans, of which a $50.0 million loan and $50.0 million in revenue interest sale proceeds were paid to us at the closing of such transactions. However, additional loan disbursements and sale proceeds are subject to our satisfaction of certain conditions related to the development of aficamten and omecamtiv mecarbil, in certain cases by specific deadlines. Should we not satisfy such conditions by the applicable deadlines, or in the event we fail to meet our obligations or default under these agreements, the actual amount of additional loan disbursements and/or sale proceeds could be substantially less than the maximum amounts available thereunder.

PART I

ITEM 1. BUSINESS

When used in this report, unless otherwise indicated, "Cytokinetics," "Company," "we," "our" and "us" refers to Cytokinetics, Incorporated. CYTOKINETICS, and our logo used alone and with the mark CYTOKINETICS, are registered service marks and trademarks of Cytokinetics. Other service marks, trademarks and trade names referred to in this report are the property of their respective owners.

Overview

We are a late-stage biopharmaceutical company focused on discovering, developing and commercializing first-in-class muscle activators and next-in-class muscle inhibitors as potential treatments for debilitating diseases in which muscle performance is compromised and/or declining. We have discovered and are developing muscle-directed investigational medicines that may potentially improve the health span of people with devastating cardiovascular and neuromuscular diseases of impaired muscle function. Our research and development activities relating to the biology of muscle function have evolved from our knowledge and expertise regarding the cytoskeleton, a complex biological infrastructure that plays a fundamental role within every human cell. As a leader in muscle biology and the mechanics of muscle performance, we are developing small molecule drug candidates specifically engineered to impact muscle function and contractility.

Our clinical-stage drug candidates are: omecamtiv mecarbil, a novel cardiac myosin activator, CK-136 (formerly known as AMG 594), a novel cardiac troponin activator, reldesemtiv (also known as CK-2127107), a novel fast skeletal muscle troponin activator ("FSTA"), aficamten (also known as CK-3773274 or CK-274), a novel cardiac myosin inhibitor, and CK-3772271 ("CK-271"), our second novel cardiac myosin inhibitor.

Omecamtiv mecarbil is being evaluated for the potential treatment of heart failure. We previously announced positive results from GALACTIC-HF (**G**lobal **A**pproach to **L**owering **A**dverse **C**ardiac Outcomes **T**hrough **I**mproving **C**ontractility in **H**eart Failure), a Phase 3 cardiovascular outcomes clinical trial of omecamtiv mecarbil in heart failure. On February 4, 2022, we announced the United States Food and Drug Administration ("FDA") had accepted for filing our new drug application ("NDA") for omecamtiv mecarbil for treatment of heart failure with reduced ejection fraction ("HFrEF").

CK-136 was discovered under our joint research program under the Amgen Agreement. In collaboration with us, Amgen conducted a randomized, placebo-controlled, double-blind, single and multiple ascending dose, single-center Phase 1 study to assess the safety and tolerability, pharmacokinetics and pharmacodynamics of CK-136 in healthy subjects.

Aficamten is a novel, oral, small molecule cardiac myosin inhibitor. Aficamten arose from an extensive chemical optimization program conducted with attention to therapeutic index and pharmacokinetic properties that may translate into next-in-class potential in clinical development. Aficamten was designed to reduce the hypercontractility that is associated with hypertrophic cardiomyopathy ("HCM").

Aficamten is being evaluated in patients with symptomatic, obstructive HCM. Following the results from Cohorts 1, 2 and 3 of REDWOOD-HCM (**R**andomized **E**valuation of **D**osing **W**ith CK-274 in **O**bstructive **O**utflow **D**isease in **HCM**), a Phase 2 multicenter, randomized, placebo-controlled, double-blind, dose-finding clinical trial of aficamten, we are conducting start-up activities for SEQUOIA-HCM (**S**afety, **E**fficacy, and **Q**uantitative **U**nderstanding of **O**bstruction **I**mpact of ***A**ficamten* in **HCM**), the planned Phase 3 randomized, placebo-controlled, double-blind, multi-center clinical trial designed to evaluate *aficamten* in patients with symptomatic obstructive HCM on background medical therapy for 24 weeks.

CK-271 is our second novel, oral, small molecule cardiac myosin inhibitor. CK-271 produces reversible dose and plasma concentration-dependent reductions in cardiac contractility without affecting heart rate in preclinical models. CK-271 reduces compensatory cardiac hypertrophy and cardiac fibrosis in preclinical models of HCM and heart failure with preserved ejection fraction.

Reldesemtiv selectively activates the fast skeletal muscle troponin complex in the sarcomere by increasing its sensitivity to calcium, leading to an increase in skeletal muscle contractility. Reldesemtiv is being evaluated for treatment in patients with amyotrophic lateral sclerosis ("ALS") in our ongoing Phase 3 clinical trial, COURAGE-ALS (**C**linical **O**utcomes **U**sing **R**eldesemtiv on **A**LSFRS-R in a **G**lobal **E**valuation in **ALS)**.

Our research continues to drive innovation and leadership in muscle biology. All of our drug candidates have arisen from our cytoskeletal research activities. Our focus on the biology of the cytoskeleton distinguishes us from other biopharmaceutical companies, and potentially positions us to discover and develop novel therapeutics that may be useful for the treatment of severe diseases and medical conditions. Each of our drug candidates has a novel mechanism of action compared to currently marketed drugs, which we believe validates our focus on the cytoskeleton as a productive area for drug discovery and development. We intend to leverage our experience in muscle contractility to expand our current pipeline and expect to identify additional potential drug candidates that may be suitable for clinical development.

Corporate Strategy

We are a late-stage biopharmaceutical company focused on discovering, developing and commercializing first-in-class muscle activators and next-in-class muscle inhibitors as potential treatments for debilitating diseases in which muscle performance is compromised and/or declining. As a leader in muscle biology and the mechanics of muscle performance, we are developing small molecule drug candidates specifically engineered to impact muscle function and contractility. Our goal is to discover, develop and commercialize novel drug products that modulate muscle function to improve patient health span, with the intent of establishing a fully-integrated biopharmaceutical company.

In 2020, we articulated our five-year strategic plan, Vision 2025: “Leading with Science, Delivering for Patients,” enabling Cytokinetics to become the leading muscle biology biopharmaceutical company that meaningfully improves the lives of patients with diseases of impaired muscle function through access to novel medicines arising from its research.

The key components of our five-year Corporate Strategy are:

- *Achieve regulatory approvals for at least two drugs arising from our pipeline.* We are committed to fueling a diverse and expansive pipeline of muscle-directed drug candidates advancing toward regulatory approval. As we advance our drug candidates into later-stage clinical development, we extensively evaluate previous clinical trial designs and results to assess key learnings that may be applied to our late-stage clinical development activities. We believe this may result in more successful later-stage clinical development activities that may increase the likelihood of achieving regulatory success and deliver effective therapies to patients that can address the needs of people living with devastating diseases of muscle impairment. Pursuing a broad-based clinical development strategy may afford us the opportunity to not be reliant on the outcome of a singular clinical program or clinical trial result, thereby potentially mitigating the risk of clinical development and regulatory hurdles. We or our partners have been conducting extensive clinical trials for our most advanced drug candidates and we believe that three drug candidates are poised to achieve potential regulatory approval by 2025 and we strive to develop compelling scientific, clinical and value-driven rationales that may lead to regulatory approvals.
- *Build commercial capabilities to market and sell our medicines reflective of their innovation and value.* With a focus on disease areas for which there are serious unmet medical needs, we direct our activities to potential commercial opportunities in concentrated and tractable customer segments, such as hospital specialists and disease-specific centers of excellence, which may be addressed by smaller, targeted sales forces. In preparing for the potential commercialization of our drug candidates directed to these markets, we are focusing our activities on the key issues facing, physicians, patients and payors, including the principal drivers of clinical and economic burdens associated with these diseases. We have established alliances and collaborations with leading academic institutions and professional societies to analyze clinical and claims data to better understand the real-world burden of disease from a clinical and economic standpoint. We believe this approach may inform the value proposition that our potential first-in-class and next-in-class therapies may offer to various stakeholders within the healthcare ecosystem. Targeting unmet medical needs may provide us competitive advantages and support our development of a franchises in diseases involving muscle function. In the markets for our potential therapies, we believe that a company with limited resources may be able to compete effectively against larger, more established companies with greater financial and commercial resources. For these opportunities, we intend to build sales and marketing capabilities in North America and potentially in Europe with the goal of becoming a fully-integrated biopharmaceutical company.
- *Generate sustainable and growing revenues from product sales.* As we move toward becoming a fully integrated biopharmaceutical company, we expect to evolve our corporate development strategies to raise capital through a combination of strategic partnerships and equity capital financings to one that is sustained from product generated revenues that are expected to grow over time. We expect to successfully commercialize at least two of our drug candidates in the U.S. and potentially in Europe and achieve growing profitability. Through prudent investment spending fueled by commercial returns alongside other potential strategic partnerships and royalty monetization deals, we seek to provide investor returns while continuing to conduct proprietary research to support future commercial programs. Additionally, we strive to ensure sustainable growth of product sales and long-term profitability through lifecycle management strategies.

- *Double our development pipeline to include ten therapeutic programs.* We believe that our extensive understanding of muscle biology and our proprietary research activities should enable us to discover and potentially to develop additional muscle directed drug candidates with novel mechanisms of action that may offer potential benefits not provided by existing drugs and which may have application across a broad array of diseases and medical conditions. Progressing related programs in parallel may afford us an opportunity to build a broader business that could benefit from multiple products that serve related clinical and commercial needs associated with impaired muscle function, muscle weakness and fatigue. In addition, this strategy may enable us to diversify certain technical, financial and operating risks by advancing several drug candidates in parallel. In 2020 we advanced five potential drug candidates through various stages of clinical development. As part of our five-year Corporate Strategy, we will expand our research discovery platform beyond muscle contractility to support doubling our pipeline to ten therapeutic programs.
- *Expand our discovery platform to muscle energetics, growth and metabolism.* We expect that we may be able to leverage our expertise in muscle contractility to expand muscle biology research programs related to other areas of muscle function and which may extend to the potential treatment of other serious, yet adjacent, diseases and conditions. As most muscle-related diseases are accompanied by defects in metabolism or mitochondrial function, we also anticipate that treatments that modulate contractility could be additive with therapeutics that boost metabolic capacity. We can augment our industry-leading expertise in muscle contractility by building similar expertise in mitochondrial biology and technologies. Strategies toward enhancing our discovery platform into muscle energetics and metabolism include building human and capital resources for mitochondrial and metabolism research capabilities, expanding strategic academic partnerships, engaging the mitochondrial research community, engaging the mitochondrial disease advocacy community, and evaluating therapeutic and technology platforms for potential in-licensing.
- *Be the science-driven company people want to join and partner with.* We build our science around patients and their families through authentic and ongoing engagement and are committed to transforming patients' lives through our activities. Our goal is to provide employees with an opportunity to contribute to something bigger than any one of the individuals at the company. We believe that a commitment to a diverse, inclusive and respectful culture goes beyond what is "right" to do; it is foundational to building a successful, creative, and science driven company, and essential to develop a community of colleagues who are impassioned by our purpose to improve the lives of patients. As a patient-centric organization, we rely on an approach where clinical outcomes, patient experiences and patients' goals for care intersect. We value our partnerships with industry, professional societies, advocacy organizations, vendors and academic institutions and aim to solicit ongoing feedback to ensure interests are aligned and collaborations are successful.

Research and Development Programs

Our long-standing interest in the cytoskeleton has led us to focus our research and development activities on the biology of muscle function and, in particular, small molecule modulation of muscle contractility. We believe that our expertise in the modulation of muscle contractility is an important differentiator for us. Our preclinical and clinical experience in muscle contractility may position us to discover and develop additional novel therapies that have the potential to improve the health of patients with severe and debilitating diseases or medical conditions.

Small molecules that affect muscle contractility may have several applications for a variety of serious diseases and medical conditions. For example, heart failure is a disease often characterized by impaired cardiac muscle contractility which may be treated by modulating the contractility of cardiac muscle. Similarly, certain diseases and medical conditions associated with muscle weakness may be amenable to treatment by enhancing the contractility of skeletal muscle. Because the modulation of the contractility of different types of muscle, such as cardiac and skeletal muscle, may be relevant to multiple diseases or medical conditions, we believe we can leverage our expertise in these areas to more efficiently discover and develop potential drug candidates that modulate the applicable muscle type for multiple indications.

We segment our research and development activities related to muscle contractility by our cardiac muscle contractility program and our skeletal muscle contractility program. We also conduct research and development on novel treatments for disorders involving muscle function beyond muscle contractility.

Our research and development expenses were $159.9 million for 2021, $97.0 million for 2020 and $86.1 million for 2019.

Cardiac Muscle Program

Our cardiac muscle contractility program is focused on the cardiac sarcomere, the basic unit of muscle contraction in the heart. The cardiac sarcomere is a highly ordered cytoskeletal structure composed of cardiac myosin, actin and a set of regulatory proteins. Cardiac myosin is the cytoskeletal motor protein in the cardiac muscle cell. It is directly responsible for converting chemical energy into the mechanical force, resulting in cardiac muscle contraction. Our most advanced cardiac program is based on the hypothesis that activators of cardiac myosin may address certain adverse properties of existing positive inotropic agents. Current positive inotropic agents, such as beta-adrenergic receptor agonists or inhibitors of phosphodiesterase activity, increase the concentration of intracellular calcium, thereby increasing cardiac sarcomere contractility. The effect on calcium levels, however, also has been linked to potentially life-threatening side effects. In contrast, our novel cardiac myosin activators work by a mechanism that directly stimulates the activity of the cardiac myosin motor protein, without increasing the intracellular calcium concentration. They accelerate the rate-limiting step of the myosin enzymatic cycle and shift it in favor of the force-producing state. Rather than increasing the velocity of cardiac contraction, this mechanism instead lengthens the systolic ejection time, which results in increased cardiac function in a potentially more oxygen-efficient manner.

Our earlier stage cardiac program is based on the hypothesis that inhibitors of hyperdynamic contraction and obstruction of left ventricular blood flow may counteract the pathologic effects of mutations in the sarcomere that lead to hypertrophic cardiomyopathies. A targeted oral therapy addressing this disease etiology may improve symptoms, exercise capacity and potentially slow disease progression.

Amgen Strategic Alliance

Our strategic alliance with Amgen to discover, develop, and commercialize novel small molecule therapeutics designed to activate cardiac muscle, including omecamtiv mecarbil, for the potential treatment of heart failure was governed by the collaboration and option agreement dated December 29, 2006, as amended (the "Amgen Agreement"). Prior to the effective termination of the Amgen Agreement, Amgen had exclusive, worldwide rights to develop and commercialize omecamtiv mecarbil and related compounds subject to our specified development and commercial participation rights. Amgen also entered an alliance with Les Laboratoires Servier and Institut de Recherches Internationales Servier ("Servier") for exclusive commercialization rights for omecamtiv mecarbil in Europe as well as the Commonwealth of Independent States ("CIS"), including Russia; Servier has contributed funding for development and provides strategic support to the program.

On November 23, 2020, we announced that Amgen had elected to terminate the Amgen Agreement and thereby end its collaboration with Cytokinetics and intended to transition development and commercialization rights for omecamtiv mecarbil and CK-136 to Cytokinetics.

On December 23, 2020, we announced that Amgen notified us that Servier elected to terminate the sublicense agreement between Amgen and Servier for the development and commercialization of omecamtiv mecarbil in Europe and the Commonwealth of Independent States, including Russia (the "Servier Agreement"). The termination was effective as of March 18, 2021, at which time all development, commercialization and other rights with respect to omecamtiv mecarbil previously granted by Amgen to Servier reverted to Amgen.

The termination of the Amgen Agreement was effective May 20, 2021, at which time worldwide rights related to the development and commercialization of omecamtiv mecarbil and CK-136 reverted to Cytokinetics. Cytokinetics and Amgen have entered into several agreements to facilitate the transition of the programs for omecamtiv mecarbil and CK-136 to Cytokinetics.

As a result of the termination of the Amgen Agreement and Servier Agreement, we are evaluating a wide range of corporate development strategies for potential co-development, co-commercialization and licensing deals in relation to omecamtiv mecarbil and our other drug candidates in order to mitigate the cost effects of these terminations and to enhance our commercial capabilities.

In 2017, we entered into a Royalty Purchase Agreement (the "RP OM RPA") with RPI Finance Trust ("RPFT"). Under the RP OM RPA, Cytokinetics sold a portion of its right to receive royalties from Amgen on future net sales of omecamtiv mecarbil to RPFT for a one-time payment of $90 million. The RP OM RPA provides for the sale of a royalty to RPFT of 4.5% on worldwide net sales of omecamtiv mecarbil, subject to a potential increase of up to an additional 1% under certain circumstances. As a result of the termination of the Amgen Agreement and pursuant to our obligations under the RP OM RPA, we and RPFT entered into Amendment No. 1 to Royalty Purchase Agreement, dated January 7, 2022 to preserve RPFT's rights under the RP OM RPA by providing for direct payments by us to RPFT of 4.5% of our and our affiliates' and licensees' worldwide net sales of omecamtiv mecarbil, subject to a potential increase of up to an additional 1% under certain circumstances (if the FDA approves omecamtiv mecarbil on its target PDUFA date of November 30, 2022, the royalty owed to RPFT will be 4.9% of worldwide net sales of omecamtiv mecarbil).

Omecamtiv mecarbil

Our lead drug candidate from our cardiac contractility program is omecamtiv mecarbil, a novel cardiac myosin activator. We are developing omecamtiv mecarbil as a potential treatment across the continuum of care in heart failure both for use in the hospital setting and for use in the outpatient setting.

Omecamtiv mecarbil: Clinical Development

GALACTIC-HF: GALACTIC-HF is a Phase 3 cardiovascular outcomes clinical trial of omecamtiv mecarbil which was conducted by Amgen, in collaboration with Cytokinetics. The primary objective of this double-blind, randomized, placebo-controlled multicenter clinical trial is to determine if treatment with omecamtiv mecarbil when added to standard of care is superior to standard of care plus placebo in reducing the risk of cardiovascular death or heart failure events in patients with high risk chronic heart failure and reduced ejection fraction. GALACTIC-HF was conducted under a Special Protocol Assessment ("SPA") with the FDA. GALACTIC-HF completed enrollment in mid-2019, having enrolled 8,256 symptomatic chronic heart failure patients with reduced ejection fraction in over 1,000 sites in 35 countries who were either currently hospitalized for a primary reason of heart failure or had had a hospitalization or admission to an emergency room for heart failure within one year prior to screening. Patients were randomized to either placebo or omecamtiv mecarbil with dose titration up to a maximum dose of 50 mg twice daily based on the plasma concentration of omecamtiv mecarbil after initiation of drug therapy. The primary endpoint is a composite of time to cardiovascular death or first heart failure event, whichever occurs first, with heart failure event defined as hospitalization, emergency room visit, or urgent unscheduled clinic visit for heart failure. Secondary endpoints include time to cardiovascular death; patient reported outcomes as measured by the Kansas City Cardiomyopathy Questionnaire Total Symptom Score; time to first heart failure hospitalization; and time to all-cause death.

In 2020, we announced that the FDA granted fast track designation for omecamtiv mecarbil for the potential treatment of chronic heart failure with reduced ejection fraction. Fast track designation may potentially expedite the review of a drug that is intended for the treatment of a serious or life-threatening disease or condition and demonstrates the potential to address an unmet medical need for such a disease or condition.

On October 8, 2020 we announced the topline results from GALACTIC-HF and on November 13, 2020 we announced the primary results from GALACTIC-HF. The results of GALACTIC-HF show that after a median duration of follow-up of 21.8 months, the trial demonstrated a statistically significant effect of treatment with omecamtiv mecarbil to reduce risk of the primary composite endpoint of cardiovascular ("CV") death or heart failure events (heart failure hospitalization and other urgent treatment for heart failure) compared to placebo in patients treated with standard of care. A first primary endpoint event occurred in 1,523 of 4,120 patients (37.0%) in the omecamtiv mecarbil group and in 1,607 of 4,112 patients (39.1%) in the placebo group (hazard ratio, 0.92; 95% confidence interval [CI] 0.86, 0.99; p=0.025). This effect was observed without evidence of an increase in the overall rates of myocardial ischemic events, ventricular arrhythmias or death from cardiovascular or all causes.

The statistically significant reduction in the composite of heart failure events or CV deaths, without significant imbalances in the overall incidence of adverse events across treatment arms, was observed in one of the broadest and most diverse range of patients enrolled in a contemporary heart failure trial. GALACTIC-HF included both inpatients and outpatients, and with a high representation of participants with moderate to severe heart failure symptoms as well as lower ejection fraction, systolic blood pressure and renal function.

No reduction in the secondary endpoint of time to CV death was observed. Death from cardiovascular causes occurred in 808 (19.6%) patients treated with omecamtiv mecarbil and 798 patients (19.4%) assigned to placebo (hazard ratio, 1.01; 95% CI, 0.92 to 1.11; p=0.86). The pre-specified analysis of change from baseline to week 24 in the KCCQ total symptom score by randomization setting (inpatient mean difference [95% CI]: 2.50 [0.54, 4.46], outpatient mean difference: -0.46 [-1.40, 0.48], joint P = 0.028) did not meet the significance threshold of P=0.002 based upon the multiplicity control testing procedure. No other secondary endpoints were met in accordance with the prespecified statistical analysis.

The effect of omecamtiv mecarbil was consistent across most prespecified subgroups and with a potentially greater treatment effect suggested in patients with a lower left ventricular ejection fraction (LVEF ≤28%, n=>4,000, hazard ratio, 0.84; 95% CI 0.77, 0.92; interaction p=0.003). Omecamtiv mecarbil also significantly decreased NT-proBNP concentrations by 10% (95% CI 6-14%) at Week 24 compared to placebo.

The overall safety profile of omecamtiv mecarbil in GALACTIC-HF appeared to be consistent with data from previous trials. Adverse events and treatment discontinuation of study drug were balanced between the treatment arms. In general, the overall rates of myocardial ischemia, ventricular arrhythmias and death were similar between treatment and placebo groups. Additionally, there was no significant difference in the change in systolic blood pressure between baseline and at 24 or 48 weeks between the omecamtiv mecarbil and placebo groups. There was a small but significant decrease in heart rate in participants assigned to omecamtiv mecarbil compared to placebo at both timepoints. Median cardiac troponin I concentration increased 4 ng/L (95% CI 3-5; limit of detection, 6 ng/L) from baseline with omecamtiv mecarbil compared to placebo.

On December 7, 2020, we announced additional results from GALACTIC-HF. These results of GALACTIC-HF showed that the effect of omecamtiv mecarbil on the primary composite endpoint in GALACTIC-HF was consistent across most prespecified subgroups and with a potentially greater treatment effect suggested in patients with a lower left ventricular ejection fraction (LVEF ≤28%, n=4,456, hazard ratio, 0.84; 95% CI 0.77, 0.92; interaction p=0.003). Supplemental analyses of this lower ejection fraction subgroup in GALACTIC-HF showed that this potentially greater treatment effect in patients who received omecamtiv mecarbil was consistently observed in patients with characteristics that may indicate advanced heart failure status, such as being hospitalized within the last 3 months (HR 0.83, 95% CI 0.74 – 0.93, p=0.001), having New York Association Class III or IV heart failure (HR 0.80, 95% CI 0.71 – 0.90, p<0.001), higher N-terminal-pro brain natriuretic peptide levels (HR 0.77, 95% CI 0.69 – 0.87, p<0.001), and lower blood pressures (HR 0.81, 95% CI 0.70 – 0.92, p=0.002). The absolute risk reductions (ARR) ranged from 5.2% to 8.1% in these subgroups as compared to the ARR of 2.1% observed in the overall population.

Additionally, a supplemental analysis of the continuous relationship between ejection fraction and the hazard ratio for the primary composite endpoint in GALACTIC-HF suggested a potentially stronger treatment effect of omecamtiv mecarbil in patients with increasingly lower ejection fractions.

On May 17, 2021, at the American College of Cardiology 70th Annual Scientific Session, we announced data from a secondary analysis of GALACTIC-HF assessing the effect of omecamtiv mecarbil on clinical outcomes in relationship to patient baseline ejection fraction. The analysis evaluated the effect of patient treatment with omecamtiv mecarbil based on quartiles of baseline EF defined as EF ≤22%, EF 23-28%, EF 29-32% and EF ≥33% as well as considering baseline EF as a continuous variable. The incidence of the primary outcome of first heart failure event or cardiovascular death increased with decreasing ejection fraction; in the lowest LVEF quartile (EF ≤22%) the incidence (35.6 per 100 patient-years) was almost 80% greater than in the highest EF quartile (EF ≥33%; 20 per 100 patient-years). Treatment with omecamtiv mecarbil demonstrated a 15% (HR 0.85; 95% CI 0.74-0.97; p = 0.016) and 17% (HR 0.83; 95% CI 0.73-0.95; p = 0.005) relative risk reduction in the lower two quartiles, respectively, compared to no difference in the upper two quartiles.

Analysis of ejection fraction as a continuous variable demonstrated a progressively larger treatment effect of omecamtiv mecarbil with decreasing ejection fraction. Accordingly, the absolute treatment effect on the primary composite endpoint also increased between the patients treated with placebo and omecamtiv mecarbil as baseline ejection fraction decreased such that in the lowest ejection fraction quartile, there was an absolute reduction of 7.4 events per 100 patient-years, with a number-needed-to-treat of 11.8 patients necessary to prevent an event over three years.

On June 30, 2021, at the European Society of Cardiology-Heart Failure Congress, we announced additional analyses from GALACTIC-HF demonstrating patients with atrial fibrillation or flutter have increased treatment effect with omecamtiv mecarbil; patients with higher baseline NT-proBNP have increased treatment effect with omecamtiv mecarbil; and patients with severe heart failure have increased treatment effect with omecamtiv mecarbil.

On September 12, 2021, we announced that additional results from GALACTIC-HF assessing the effect of omecamtiv mecarbil in Black patients with HFrEF were presented in a late breaking clinical trial session at the HFSA Annual Scientific Meeting. Specifically, it was presented that of the 8,256 patients enrolled in the trial, 562 were Black (6.8%) and 285 were randomized to receive treatment with omecamtiv mecarbil. Among Black patients, treatment with omecamtiv mecarbil resulted in a trend towards reduction in the primary endpoint by 18% (HR=0.82, 95% CI 0.64-1.04), corresponding to a reduction in the primary event rate of 7.7/100 patient-years with a number-needed-to-treat of 13 patients. This result, like the overall study results, was driven primarily by a reduction in HF hospitalizations (HR=0.80) and HF events (HR=0.82), with no effect on cardiovascular mortality (HR=1.03). There were no significant differences in adverse events in Black patients between the groups treated with omecamtiv mecarbil and placebo.

METEORIC-HF: On February 15, 2022, we announced topline results from METEORIC-HF (**M**ulticenter **E**xercise **T**olerance **E**valuation of **O**mecamtiv Mecarbil **R**elated to **I**ncreased **C**ontractility in **H**eart **F**ailure), a Phase 3 clinical trial of omecamtiv mecarbil in patients with HFrEF. METEORIC-HF evaluated the effect of treatment with omecamtiv mecarbil compared to placebo on exercise capacity as determined by cardiopulmonary exercise testing ("CPET") following 20 weeks of treatment in patients with HFrEF receiving standard of care therapy. The trial completed enrollment of 276 patients in June 2021. There was no effect on the primary endpoint, which was the change in peak oxygen uptake (pVO_2) on CPET from baseline to Week 20 in patients treated with omecamtiv mecarbil compared to placebo. Adverse events, including major cardiac events, were similar between the treatment arms and the safety profile of omecamtiv mecarbil in METEORIC-HF was consistent with prior clinical trials including GALACTIC-HF.

Omecamtiv mecarbil: New Drug Application

On February 4, 2022, we announced that the FDA had accepted and filed our NDA for omecamtiv mecarbil for the treatment of HFrEF. The FDA assigned the NDA a standard review with a Prescription Drug User Fee Act ("PDUFA") target action date of November 30, 2022. The FDA also indicated that it was not currently planning to hold an advisory committee meeting to discuss the NDA.

Omecamtiv mecarbil: Microgenics Immunoassay Development

Amgen and Microgenics Corporation ("Microgenics") are parties to that certain Collaborative Development and Commercialization Agreement, dated July 26, 2012 (as amended from time to time, the "Assay Agreement"), for the development of an antibody-based immunoassay (the "Microgenics OM Assay") used for the in vitro measurement of concentrations of omecamtiv mecarbil in human blood and other bodily fluids, as well as related calibrator and controls, based on immunoassay technologies developed by Microgenics and its affiliates suitable for application on automated chemistry analyzers. The Microgenics OM Assay was intended to ensure personalized dose optimization of omecamtiv mecarbil in patients being treated. The Microgenics OM Assay was utilized in both GALACTIC-HF and METEORIC-HF to enable optimal dose titration in patients. We have been informed by Amgen that the Assay Agreement terminated contemporaneously with the termination of the Amgen Agreement. Consequently, we are pursuing the development and/or usage of alternative dosage selection tests to the Microgenics OM Assay to be used for personalized dose optimization of omecamtiv mecarbil if required by FDA or other regulatory authorities in order to obtain marketing approval of omecamtiv mecarbil.

Omecamtiv mecarbil: Ji Xing Strategic Alliance

On December 20, 2021, we entered into License and Collaboration Agreement with Ji Xing (the "Ji Xing OM License Agreement"), pursuant to which we granted to Ji Xing an exclusive license to develop and commercialize omecamtiv mecarbil in China and Taiwan. Under the terms of the Ji Xing OM License Agreement, we are the beneficiary of a nonrefundable $50.0 million payment obligation from Ji Xing comprised of a $40.0 million payment as consideration for the rights granted by us to Ji Xing and $10.0 million attributable to our having submitted to FDA a new drug application ("NDA") for omecamtiv mecarbil. We may be eligible to receive from Ji Xing additional payments totaling up to $330.0 million for the achievement of certain commercial milestone events in connection to omecamtiv mecarbil. In addition, Ji Xing will pay us tiered royalties in the mid-teens to the low twenties range on the net sales of pharmaceutical products containing omecamtiv mecarbil in China and Taiwan, subject to certain reductions for generic competition, patent expiration and payments for licenses to third party patents. The Ji Xing OM License Agreement, unless terminated earlier, will continue on a market-by-market basis until expiration of the relevant royalty term.

CK-136

CK-136 is a novel, selective, oral, small molecule cardiac troponin activator which was discovered under our joint research program with Amgen. In preclinical models, CK-136 increases myocardial contractility by binding to cardiac troponin through an allosteric mechanism that sensitizes the cardiac sarcomere to calcium, facilitating more actin-myosin cross bridge formation during each cardiac cycle thereby resulting in increased myocardial contractility. Similar to cardiac myosin activation, preclinical research has shown that cardiac troponin activation does not change the calcium transient of cardiac myocytes.

CK-136: Clinical Development

In collaboration with Cytokinetics, Amgen conducted a randomized, placebo-controlled, double-blind, single and multiple ascending dose, single-center Phase 1 study to assess the safety and tolerability, pharmacokinetics and pharmacodynamics of CK-136 in healthy subjects. As a result of the effective termination of the Amgen Agreement on May 20, 2021, worldwide rights related to the development and commercialization of CK-136 reverted to Cytokinetics, and Cytokinetics and Amgen have entered into several agreements to facilitate the transition of the program for CK-136 to Cytokinetics.

In 2020, we announced that preclinical data were presented at the Keystone Symposium "Charting a New Course for Heart Failure: From Discovery to Data," demonstrating that CK-136 selectively increases calcium sensitivity of cardiac muscle fibers and increases cardiac contractility.

On October 29, 2021 we announced that preclinical data relating to the discovery and optimization of CK-136 were presented at the 2021 Medicinal Chemistry Gordon Research Conference in West Dover, VT. The data presented described the primary research objectives related to CK-136 including the identification of initial hit compounds and subsequent chemical optimization as well as preclinical characterization in biochemical assays, cardiac myocytes, and *in vivo* models of cardiac function. An initial cardiac troponin activator identified in screening was shown in a reconstituted sarcomere assay to selectively activate the cardiac troponin complex. Importantly, it did not inhibit phosphodiesterase 3 (PDE-3) and showed no effect on the cardiomyocyte calcium transient, indicating its selectivity. The optimization of the initial hit compound that led to CK-136 focused to maximizing the therapeutic window and its pharmacokinetic profile as could result in favorable increases in cardiac function. Preclinical studies demonstrated that the pharmacodynamic range for CK-136 was larger than that associated with omecamtiv mecarbil in similar preclinical models. Additionally, CK-136 demonstrated a pharmacokinetic profile and a projected human half-life that should enable once or twice daily dosing. These preclinical data suggest that CK-136 is a selective cardiac troponin activator with a favorable pharmacodynamic window associated with substantial increases in cardiac contractility, representing a potential approach to augmenting cardiac contractility in diseases characterized by reduced cardiac function.

Aficamten

Aficamten is a novel, oral, small molecule cardiac myosin inhibitor that our company scientists discovered. Aficamten arose from an extensive chemical optimization program conducted with attention to therapeutic index and pharmacokinetic properties that may translate into next-in-class potential in clinical development. Aficamten was purposely designed to reduce the hypercontractility that is associated with HCM. In preclinical models, aficamten reduces myocardial contractility by binding directly to cardiac myosin at a distinct and selective allosteric binding site, thereby preventing myosin from entering a force producing state. Aficamten reduces the number of active actin-myosin cross bridges during each cardiac cycle and consequently reduces myocardial contractility. This mechanism of action may be therapeutically effective in conditions characterized by excessive hypercontractility, such as HCM. The preclinical pharmacokinetics of aficamten were characterized evaluated and optimized for potential rapid onset, ease of titration and rapid symptom relief in the clinical setting. The initial focus of the development program for aficamten will include an extensive characterization of its pharmacokinetics/pharmacodynamic ("PK/PD") relationship as has been a hallmark of Cytokinetics' industry-leading development programs in muscle pharmacology. The overall development program will assess the potential of aficamten to improve exercise capacity and relieve symptoms in patients with hyperdynamic ventricular contraction due to HCM.

Aficamten: Clinical Development

We conducted a Phase 1 double-blind, randomized, placebo-controlled, multi-part, single and multiple ascending dose clinical trial of CK-274 to assess the safety and tolerability, pharmacokinetics and pharmacodynamics of aficamten in healthy subjects. In September 2019 we presented data from the Phase 1 study of CK-274 at the HFSA 23rd Annual Scientific Meeting in Philadelphia. The study met its primary and secondary objectives to assess the safety and tolerability of single and multiple oral doses of aficamten, describe the pharmacokinetics of CK-274 and its pharmacodynamic effects as measured by echocardiography, as well as to characterize the PK/PD relationship with regards to cardiac function. These data support the advancement of aficamten into a Phase 2 clinical trial in patients with obstructive HCM (REDWOOD-HCM), which started in the first quarter of 2020 and will continue to be conducted in 2022.

On January 11, 2021, we announced that the FDA granted orphan drug designation to aficamten for the treatment of symptomatic HCM.

On May 6, 2021, we announced that the first site had been activated to enroll patients in REDWOOD-HCM OLE, an open-label extension clinical study designed to assess the long-term safety and tolerability of CK-274 in patients with symptomatic obstructive HCM ("oHCM"). Eligible patients have completed participation in REDWOOD-HCM, the Phase 2 clinical trial of aficamten.

On July 19, 2021, we announced positive topline results of Cohorts 1 and 2 of REDWOOD-HCM. Specifically, results from Cohorts 1 and 2 of REDWOOD-HCM demonstrated that treatment with aficamten for 10 weeks resulted in statistically significant reductions from baseline compared to placebo in the average resting left ventricular outflow tract pressure gradient ("LVOT-G") ($p=0.0003$, $p=0.0004$, Cohort 1 and Cohort 2, respectively) and the average post-Valsalva LVOT-G ($p=0.001$, $p<0.0001$, Cohort 1 and Cohort 2, respectively). The majority of patients treated with aficamten (78.6% in Cohort 1 and 92.9% in Cohort 2) achieved the target goal of treatment, defined as resting gradient <30 mmHg and post-Valsalva gradient <50 mmHg at Week 10 compared to placebo (7.7%). Reductions in LVOT-G occurred within two weeks of initiating treatment with aficamten, were maximized within two to six weeks of the start of dose titration, and were sustained until the end of treatment at 10 weeks. The observed reductions in LVOT-G were dose dependent, with patients achieving greater reductions of LVOT-G with increasing doses of aficamten. Treatment with aficamten in REDWOOD-HCM was generally well tolerated. The incidence of adverse events was similar between treatment arms. No serious adverse events were attributed to aficamten and no treatment interruptions occurred on aficamten. No new cases of atrial fibrillation in patients treated with aficamten were reported. In this dose-range finding trial, one patient experienced a transient decrease in left ventricular ejection fraction ("LVEF") that required dose adjustment but not dose interruption. LVEF returned to baseline within two weeks after the end of treatment in both cohorts, which was consistent with the reversibility of LVEF decreases that were similarly observed in healthy participants in the Phase 1 study of aficamten.

On September 12, 2021, we announced that the primary results of REDWOOD-HCM were presented in a late breaking clinical trial session at the HFSA Annual Scientific Meeting.

Reductions in LVOT-G occurred within two weeks of initiating treatment with aficamten, were maximized within two to six weeks of the start of dose titration and were sustained until the end of treatment at 10 weeks. Reversibility of the pharmacodynamic effect of aficamten was seen after a two-week washout, with resting LVOT-G, post-Valsalva LVOT-G, NT-proBNP and LVEF returning to baseline values. The observed reductions in LVOT-G were dose dependent, with patients achieving greater reductions of LVOT-G with increasing doses of aficamten. Over the 10-week study period, patients treated with aficamten in both Cohort 1 and Cohort 2 also experienced statistically significant reductions in NT-proBNP ($p=0.003$). Treatment with aficamten was also associated with an improvement in heart failure functional class as measured by New York Heart Association (NYHA) class. Improvement by at least one class was achieved by 31% in the placebo group, 43% of patients in Cohort 1 ($p>0.1$) and 64% of patients in Cohort 2 ($p=0.08$).

On October 7, 2021, we announced the design of SEQUOIA-HCM. SEQUOIA-HCM is a Phase 3 randomized, placebo-controlled, double-blind, multi-center clinical trial designed to evaluate aficamten in patients with symptomatic oHCM on background medical therapy for 24 weeks. The primary objective is to assess the effect of aficamten on change in peak oxygen uptake (pVO_2) measured by cardiopulmonary exercise testing (CPET) from baseline to week 24. Secondary objectives include change in Kansas City Cardiomyopathy Questionnaire (KCCQ) score from baseline to week 12 and week 24, the proportion of patients with ≥1 class improvement in New York Heart Association (NYHA) functional class from baseline to week 12 and week 24, change in post-Valsalva left ventricular outflow tract gradient (LVOT-G) to week 12 and week 24, the proportion of patients with post-Valsalva LVOT-G <30 mmHg, and change in total workload during CPET to week 24.

SEQUOIA-HCM is open for enrollment and is expected to enroll 270 patients, randomized on a 1:1 basis to receive aficamten or placebo in addition to standard-of-care treatment. Each patient will receive up to four escalating doses of aficamten or placebo based on echocardiographic guidance alone. At screening, patients enrolled in SEQUOIA-HCM must have a resting LVOT-G ≥30 mmHg, post-Valsalva peak LVOT-G ≥50 mmHg, and be NYHA Class II or III. Patients receiving aficamten will begin with 5 mg dosed once daily. At weeks 2, 4 and 6 patients will receive an echocardiogram to determine if they will be up-titrated to escalating doses of 10, 15 or 20 mg. Dose escalation will occur only if a patient has a post-Valsalva LVOT-G ≥30 mmHg and a biplane left ventricular ejection fraction (LVEF) ≥55%. Patients who do not meet escalation criteria will continue to receive their current dose or may be down-titrated if appropriate.

On December 9, 2021, we announced that the FDA granted Breakthrough Therapy Designation for aficamten for the treatment of oHCM.

On February 1, 2022 we announced positive topline results from Cohort 3 of REDWOOD-HCM. Cohort 3 of REDWOOD-HCM enrolled patients with symptomatic oHCM and a resting or post-Valsalva LVOT-G of ≥50 mmHg whose background therapy included disopyramide and in the majority a beta-adrenergic blocker. All patients received up to three escalating doses of aficamten once daily (5, 10, 15 mg), titrated based on echocardiographic guidance. The doses employed were the same as those used in Cohort 1 of REDWOOD-HCM. Overall treatment duration was 10 weeks with a 4-week follow up period after the last dose. In total, thirteen patients were enrolled and all patients completed the study on treatment.

Results from Cohort 3 showed that substantial reductions in the average resting LVOT-G as well as the post-Valsalva LVOT-G (defined as resting gradient <30 mmHg and post-Valsalva gradient <50 mmHg) were achieved. These clinically relevant decreases in pressure gradients were achieved with only modest decreases in average LVEF) there were no patients whose LVEF fell below the prespecified safety threshold of 50%. New York Heart Association functional class was improved in the majority of patients participating in Cohort 3 of the trial. Pharmacokinetic data were similar to those observed in Cohorts 1 and 2. In addition, the safety and tolerability of aficamten were consistent with prior experience in REDWOOD-HCM with no treatment interruptions and no serious adverse events attributed to treatment reported by the investigators.

Ji Xing Strategic Alliance

On July 14, 2020, we entered into a certain License and Collaboration Agreement with Ji Xing (the "Ji Xing Aficamten License Agreement"), pursuant to which we granted to Ji Xing an exclusive license to develop and commercialize aficamten in China and Taiwan. Under the terms of the Ji Xing Aficamten License Agreement, we received from Ji Xing an upfront payment of $25.0 million. We may be eligible to receive from Ji Xing milestone payments totaling up to $200.0 million for the achievement of certain development and commercial milestone events in connection to aficamten in the field of obstructive hypertrophic cardiomyopathy, or oHCM, and/or non-obstructive hypertrophic cardiomyopathy ("nHCM") and other indications. In addition, Ji Xing will pay us tiered royalties in the low-to-high teens range on the net sales of pharmaceutical products containing aficamten in China and Taiwan, subject to certain reductions for generic competition, patent expiration and payments for licenses to third party patents. The Ji Xing Aficamten License Agreement, unless terminated earlier, will continue on a market-by-market basis until expiration of the relevant royalty term.

CK-271

In 2020, we submitted an investigational new drug application ("IND") for CK-271, a second cardiac myosin inhibitor, and we were notified by the FDA that the IND was accepted. One of the hallmarks of Cytokinetics' research and development approach has been to advance multiple compounds to enable potential expansion of a drug development program into different indications and patient populations. On September 23, 2020, we announced that the first participants have been dosed in a Phase 1 placebo-controlled, single ascending dose clinical study of CK-271. The primary objective of this Phase 1 placebo-controlled, single ascending dose clinical study in healthy adults is to assess the safety and tolerability of CK-271. The secondary objective is to evaluate the pharmacokinetic profile of CK-271 following single oral ascending doses. The study design includes three cohorts, with 8 adults per cohort randomized (6:2) in a blinded fashion to CK-271 or placebo. Dose escalation decisions were made after review of the available safety, pharmacokinetic, and echocardiography data. In 2020, we completed our planned Phase 1, single-dose pharmacokinetic evaluation and tolerability assessments of CK-271 in healthy volunteers and determined it to be suitable for further development. We are evaluating its potential for its further development in connection with our plans to conduct a broad development program for our cardiac myosin inhibitor(s) in HCM and potentially other indications.

Skeletal Muscle Contractility Program

Our skeletal muscle contractility program is focused on the activation of the skeletal sarcomere, the basic unit of skeletal muscle contraction. The skeletal sarcomere is a highly ordered cytoskeletal structure composed of skeletal muscle myosin, actin, and a set of regulatory proteins, which include the troponins and tropomyosin. This program leverages our expertise developed in our ongoing discovery and development of cardiac sarcomere activators, including the cardiac myosin activator, omecamtiv mecarbil.

We believe that our skeletal sarcomere activators may lead to new therapeutic options for diseases and medical conditions associated with neuromuscular dysfunction and potentially also conditions associated with aging and muscle weakness and wasting. The clinical effects of muscle weakness and wasting, fatigue and loss of mobility can range from decreased quality of life to, in some instances, life-threatening complications. By directly improving skeletal muscle function, a small molecule activator of the skeletal sarcomere potentially could enhance functional performance and quality of life in patients suffering from diseases or medical conditions associated with skeletal muscle weakness or wasting, such as ALS, spinal muscular atrophy ("SMA"), chronic obstructive pulmonary disease ("COPD") or sarcopenia (general frailty associated with aging).

Astellas Strategic Alliance

Our strategic alliance with Astellas to advance novel therapies for diseases and medical conditions associated with muscle impairment and weakness commenced in 2013 under the License and Collaboration Agreement, dated June 21, 2013 between the parties (the "Astellas Agreement"). Initially we exclusively licensed to Astellas rights to co-develop and potentially co-commercialize reldesemtiv and other FSTAs in non-neuromuscular indications and to develop and commercialize other novel mechanism skeletal muscle activators in all indications, subject to certain Cytokinetics' development and commercialization rights. Subsequently, in 2014, we and Astellas expanded the strategic alliance to include certain neuromuscular indications, including SMA, for reldesemtiv and other FSTAs and to advance reldesemtiv into Phase 2 clinical development, initially in SMA. In 2016, we and Astellas further expanded the strategic alliance to include the development of reldesemtiv for the potential treatment of ALS, as well as the possible development in ALS of other FSTAs previously licensed by us to Astellas.

On April 23, 2020, Cytokinetics and Astellas entered into two agreements, which, taken together, amend and restate our research, development and commercialization collaboration with Astellas under the Astellas Agreement, as set out below.

Cytokinetics and Astellas signed a Fast Skeletal Regulatory Activator Agreement dated April 23, 2020 (the "Astellas FSRA Agreement"). As a result of the Astellas FSRA Agreement, Cytokinetics will now have exclusive control and responsibility for Cytokinetics' future development and commercialization of reldesemtiv, CK-601 and other fast skeletal regulatory activator (collectively "FSRA") compounds and products, and accordingly, Astellas agreed to terminate its license to all FSRA compounds and related products. Under the Astellas FSRA Agreement, Astellas agreed to pay one-third of the out-of-pocket clinical development costs which may be incurred in connection with Cytokinetics' potential Phase 3 clinical trial of reldesemtiv in ALS up to a maximum contribution by Astellas of $12 million. In addition, Astellas agreed to non-cash contributions to Cytokinetics, which include the transfer of its existing inventories of active pharmaceutical ingredient of reldesemtiv and CK-601. Astellas also agreed to the continued conduct of ongoing stability studies pertaining to such existing inventories of active pharmaceutical ingredient, at Astellas' cost. In exchange, Cytokinetics will pay Astellas a low- to mid- single digit royalty on sales of reldesemtiv in the United States, Canada, United Kingdom and the European Union until the later of (i) ten years following the first commercial sale of such product in a major market country, or (ii) December 31, 2034, subject to certain royalty reduction provisions. Cytokinetics would not owe Astellas royalties on sales of reldesemtiv in any other country, or on the sale of any FSRA compounds or related products other than reldesemtiv.

Cytokinetics and Astellas also signed the Astellas OSSA Agreement. The Astellas OSSA Agreement is an amendment and restatement of the Astellas Agreement and removes the FSRA compounds and related products from the collaboration.

Under the Astellas OSSA Agreement, Astellas extended the joint research program at Cytokinetics focused on the discovery of additional next-generation skeletal muscle activators (other than FSRAs) through December 31, 2020, with a minimum of fifteen (15) research FTE's being supported by Astellas. The parties subsequently agreed to extend this joint research program through March 31, 2021, with up to five (5) research FTE's at Cytokinetics being supported by Astellas.

On April 27, 2021, we received written notice of termination from Astellas of the Astellas OSSA Agreement. The effective date of the termination of the Astellas OSSA Agreement was November 1, 2021.

Under the terms of the Astellas OSSA Agreement, Astellas received exclusive rights to co-develop and commercialize skeletal sarcomere activators (other than FSRA compounds and products) in all indications, subject to certain development and commercialization rights of Cytokinetics; Cytokinetics had the right to co-promote and conduct certain commercial activities in the U.S., Canada and/or Europe under agreed scenarios. If development candidates were identified and advanced in clinical research, the Astellas OSSA Agreement contained provisions related to shared development roles between Cytokinetics and Astellas, and opportunities for Cytokinetics to co-invest and/or co-promote under certain conditions. In the case of development candidates taken forward solely by Astellas, Cytokinetics would have received development and regulatory milestones of $25 to $35 million per product, up to $250 million for all products, except under certain scenarios, commercial milestones of up to $200 million, and royalties that ranged from a mid-single digit level to low double-digits. In the event of co-investment by Cytokinetics and approvals in certain indications, Cytokinetics would have received royalties ranging from mid-to-high double digits (not to exceed an incremental rate in the mid-twenties).

Pursuant to the terms of the Astellas OSSA Agreement, upon the effective date of the termination, all licenses and other rights granted to Astellas under the Astellas OSSA Agreement terminated.

Reldesemtiv

Reldesemtiv selectively activates the fast skeletal muscle troponin complex in the sarcomere by increasing its sensitivity to calcium, leading to an increase in skeletal muscle contractility. Reldesemtiv has demonstrated pharmacological activity in preclinical models and evidence of potentially clinically relevant pharmacodynamic effects in humans. The FDA granted reldesemtiv orphan drug designation for the potential treatment of SMA in 2017 and for the potential treatment of ALS in 2019. The European Medicines Agency (“EMA”) granted orphan medicinal product designation to reldesemtiv for the potential treatment of SMA in July 2019 and for the potential treatment of ALS in March 2020.

Reldesemtiv: Clinical Development

SMA: In 2018, we announced data from a hypothesis-generating, Phase 2 double-blind, randomized, placebo-controlled clinical study in patients with SMA which was designed to determine potential pharmacodynamic effects of a suspension formulation of reldesemtiv following 8 weeks of oral dosing in each of two cohorts of 36 patients with Type II, Type III, or Type IV disease. Secondary objectives were to evaluate the safety, tolerability and pharmacokinetics of reldesemtiv. The study showed statistically significant concentration-dependent increases in changes from baseline in Six Minute Walk Distance (“6MWD”), a sub-maximal exercise test of aerobic capacity and endurance. The study also showed statistically significant increases for Maximal Expiratory Pressure (“MEP”), a measure of strength of respiratory muscles. Other assessments, including the Hammersmith Functional Motor Score – Extended, Revised Upper Limb Module, Timed Up-and-Go, Forced Vital Capacity, and the SMA Health Index (“SMA-HI”), a patient reported outcome measure (“PROM”) developed to comply with FDA standards for PROMs, did not demonstrate differences between reldesemtiv versus placebo. Adverse events were similar between groups receiving reldesemtiv and placebo.

Additional results presented in 2018 showed sustained increases in 6MWD and MEP four weeks after discontinuation of study drug (i.e., follow-up). A post-hoc analysis also showed that changes from baseline in the 6MWD at 450 mg twice daily were significantly correlated with changes from baseline on certain domains of the SMA-HI intended to reflect improved endurance, especially Fatigue and Activity Participation. Decreases in SMA-HI scores reflect reduced disease burden as measured by that PROM, suggesting that as 6MWD increased, disease burden assessed by that domain of the SMA-HI was reduced.

In 2019, we announced that we received feedback from the FDA that the 6MWD is an acceptable primary efficacy endpoint for a potential registration program for reldesemtiv in patients with SMA who have maintained ambulatory function. The FDA also recommended adding a global function scale as a secondary endpoint.

In 2019, we announced that data from two preclinical studies of reldesemtiv showed that the addition of reldesemtiv to treatment with SMN upregulators (nusinersen and SMN-C1, an analogue to risdiplam) significantly increased muscle force in a mouse model of SMA.

ALS: In collaboration with Astellas, we conducted FORTITUDE-ALS (Functional Outcomes in a Randomized Trial of Investigational Treatment with CK-2127107 to Understand Decline in Endpoints – in ALS). This Phase 2 trial enrolled 458 eligible ALS patients who were randomized (1:1:1:1) to receive either 150 mg, 300 mg or 450 mg of reldesemtiv or placebo dosed orally twice daily for 12 weeks. The primary efficacy endpoint of FORTITUDE-ALS was the change from baseline in the percent predicted slow vital capacity ("SVC") at 12 weeks. Secondary endpoints included slope of the change from baseline in the mega-score of muscle strength measured by hand held dynamometry and handgrip dynamometry in patients on reldesemtiv; change from baseline in the ALS Functional Rating Scale – Revised ("ALSFRS-R"); incidence and severity of treatment-emergent adverse events; and plasma concentrations of reldesemtiv at the sampled time points during the study. Exploratory endpoints measured included the effect of reldesemtiv versus placebo on self-assessments of respiratory function made at home by the patient with help as needed by the caregiver; disease progression through quantitative measurement of speech production characteristics over time; disease progression through quantitative measurement of handwriting abilities over time; and the change from baseline in quality of life (as measured by the ALS Assessment Questionnaire-5) in patients on reldesemtiv.

In 2019, we announced results of FORTITUDE-ALS. FORTITUDE-ALS did not achieve statistical significance for a pre-specified dose-response relationship in its primary endpoint of change from baseline in SVC after 12 weeks of dosing (p=0.11). Similar analyses of ALSFRS-R and slope of the Muscle Strength Mega-Score yielded p-values of 0.09 and 0.31, respectively. However, patients on all dose groups of reldesemtiv declined numerically less than patients on placebo for SVC and ALSFRS-R, with larger differences emerging over time.

While the dose-response analyses for the primary and secondary endpoints did not achieve statistical significance at the level of 0.05, in a post-hoc analysis pooling the doses together, patients who received reldesemtiv in FORTITUDE-ALS declined less than patients who received placebo. The trial showed numerical effects favoring reldesemtiv across dose levels and timepoints with clinically meaningful magnitudes of effect observed at 12 weeks for the primary and secondary endpoints. The differences between reldesemtiv and placebo in SVC and ALSFRS-R total score observed after 12 weeks of treatment were still evident at follow-up, four weeks after the last dose of study drug.

The incidence of early treatment discontinuations, serious adverse events and clinical adverse events in FORTITUDE-ALS were similar between placebo and active treatment arms. The most common clinical adverse effects in the trial included fatigue, nausea and headache. The leading cause for early termination from FORTITUDE-ALS for patients who received placebo was progressive disease; the leading cause for early termination for patients who received reldesemtiv was a decline in cystatin C based estimated glomerular filtration rate ("eGFR"), a measure of renal function. Elevations in transaminases and declines in cystatin C eGFR were dose-related.

In 2019, post-hoc analyses from FORTITUDE-ALS were presented. The analyses demonstrated that, in the combined middle and faster progressing tertiles of patients, the decline in the ALSFRS-R total score from baseline to week 12 in patients who received any dose of reldesemtiv was significantly smaller than the decline on placebo, while no significant difference between reldesemtiv and placebo was observed in slower progressing patients.

In 2019, we presented subgroup analyses of FORTITUDE-ALS showing that the effect of reldesemtiv on patients with ALS was similar whether or not patients were also receiving edaravone and/or riluzole.

On December 14, 2020, we announced that additional post-hoc analyses from FORTITUDE-ALS evaluating how baseline patient characteristics impacted the effect of treatment with reldesemtiv versus placebo. When patients were divided into faster, middle and slower progressing tertiles based on pre-study ALSFRS-R progression rates, the middle and fastest progressing tertiles of patients combined showed a 27% difference at 12 weeks between patients receiving reldesemtiv versus placebo (1.15 ALSFRS-R points, p=0.011), compared to 18% (0.4 points; p=0.43) in the slowest progressing tertile. In general, patients with a longer symptom duration were slower progressors; 59% of those with SD >24 months were in the slowest tertile. Most patients who were minimally affected with an ALSFRS-R ≥45 at baseline were also slow progressors. In comparing the treatment effect of slow progressing patients with symptoms ≤24 months and a baseline ALSFRS-R score of ≤44 to the original primary analysis population, the effect size and statistical significance increased, despite reducing the number of analyzed patients. In an analysis of the total study population (n=458), combining all patients who received reldesemtiv and comparing to those who received placebo, the change from baseline to week 12 in the ALSFRS-R total score showed a least square mean (LSM) difference of 0.87 (p=0.013). However, limiting the analysis population to patients with symptoms ≤24 months and a baseline ALSFRS-R score of ≤44 (n=272), the LSM difference was 1.84 (p=0.0002). Together, these post-hoc analyses indicate that the impact of treatment with reldesemtiv was more apparent in patients with faster pre-study rates of progression, which include patients with short symptom duration and lower baseline ALSFRS-R scores.

Also on December 14, 2020, we announced the design of COURAGE-ALS (Clinical Outcomes Using Reldesemtiv on ALSFRS-R in a Global Evaluation in ALS), the planned Phase 3 clinical trial of reldesemtiv in patients with ALS. COURAGE-ALS is expected to enroll approximately 555 patients with ALS.. Patients will be randomized 2:1 to receive 300 mg of reldesemtiv or matching placebo dosed orally twice daily for 24 weeks, followed by a 24-week period in which all patients will receive 300 mg of reldesemtiv twice daily. Eligible patients will be within the first two years of their first symptom of muscle weakness, have a vital capacity of ≥65% predicted, and a screening ALS Functional Rating Scale – Revised (ALSFRS-R) ≤44. Patients currently taking stable doses of Radicava® (edaravone) and/or Rilutek® (riluzole) will be permitted and randomization stratified accordingly. The primary efficacy endpoint will be change from baseline to 24 weeks in ALSFRS-R. Secondary endpoints include combined assessment of ALSFRS-R total score; time to onset of respiratory insufficiency and survival time up to week 24 using a joint rank test; change from baseline to 24 weeks for vital capacity; ALSAQ-40; and bilateral handgrip strength. Two unblinded interim analyses by the Data Monitoring Committee are planned. The first will assess for futility, 12 weeks after approximately one-third or more of the planned sample size is randomized. A second interim analysis will also assess for futility, and there will be an option for a fixed increase in total enrollment if necessary to augment the statistical power of the trial. This Phase 3 clinical trial design builds on insights gained from FORTITUDE-ALS, further exploring the hypothesis that fast skeletal muscle activation with reldesemtiv may be an important therapeutic strategy in ALS.

On August 2, 2021, we announced that COURAGE-ALS was opened to enrollment, and enrollment is currently ongoing.

Next Generation Fast Skeletal Muscle Troponin Activators

In 2018, we announced the advancement of CK-601, a next-generation FSTA, into IND-enabling studies, which triggered a $2.0 million milestone payment from Astellas to us. CK-601 was designed in a joint research program conducted by the companies' scientists to have different pharmacokinetics and physicochemical properties than *reldesemtiv* which may inform its development for the treatment of diseases and conditions associated with both neuromuscular and non-neuromuscular etiology and pathogenesis.

Ongoing Research in Skeletal Muscle Activators

We are conducting translational research in preclinical models of disease and muscle function with FSTAs to explore the potential clinical applications of this novel mechanism in diseases or conditions associated with skeletal muscle dysfunction.

Beyond Muscle Contractility

We developed preclinical expertise in the mechanics of skeletal, cardiac and smooth muscle that extends from proteins to tissues to intact animal models. Our translational research in muscle contractility has enabled us to better understand the potential impact of small molecule compounds that increase skeletal or cardiac muscle contractility and to apply those findings to the further evaluation of our drug candidates in clinical populations. In addition to contractility, other major functions of muscle play a role in certain diseases that could benefit from novel mechanism treatments. Accordingly, our knowledge of muscle contractility may serve as an entry point to the discovery of novel treatments for disorders involving muscle functions other than muscle contractility. We are leveraging our current understandings of muscle biology to investigate new ways of modulating these other aspects of muscle function for other potential therapeutic applications.

Manufacturing Resources

Our drug candidates require precise high-quality manufacturing that is compliant with good manufacturing processes (or foreign equivalent) and other applicable laws. We have no manufacturing capabilities and rely on third party sources for the supply or sourcing of raw materials, the manufacture of active pharmaceutical ingredients and the manufacture and packaging of finished drug products for both clinical trial materials and commercial supply.

We have established relationships with leading contract manufacturers for the manufacture and supply of active pharmaceutical ingredients and finished drug product for use in our clinical trials. Clinical trial materials sourced from contract manufacturers generally have longer lead times than commercial product, have a higher cost per unit as a result of smaller batch sizes, and may be more difficult to manufacture to necessary specifications. As a result, we endeavor to seek contract manufacturers with proven manufacturing capabilities and quality standards whom we can rely on for timely supply.

In the event any of our drug candidates were to be approved for commercial marketing by the FDA or any other regulatory authorities, we would need to enter into contractual arrangements with contract manufacturers for the manufacture of active pharmaceutical ingredients and packaging of finished drug product for commercial use.

Prior to Amgen's election to terminate the Amgen Agreement, we relied on Amgen for the supply of omecamtiv mecarbil for use in clinical trials of omecamtiv mecarbil. In furtherance to Amgen's transition obligations arising as a result of its election to terminate the Amgen Agreement, Amgen transferred to us certain requested quantities of the active pharmaceutical ingredient and finished drug product. In January 2022, we entered into a long-term commercial supply agreement for finished drug product, and we are continuing to seek a long-term commercial supply agreement for the active pharmaceutical ingredient for omecamtiv mecarbil.

We have contract manufacturing arrangements in place with leading contract manufacturers for the development and supply of the active pharmaceutical ingredient and finished drug product for aficamten and reldesemtiv for use in our clinical trials, including SEQUOIA-HCM and COURAGE-ALS.

Intellectual Property Resources

Our policy is to seek patent protection for the technologies, inventions and improvements that we develop that we consider important to the advancement of our business. As of December 31, 2021, we owned, co-owned or licensed 74 issued U.S. patents, over 620 issued patents in various foreign jurisdictions, and over 320 additional pending U.S. and foreign patent applications. We also rely on trade secrets, technical know-how and continuing innovation to develop and maintain our competitive position. Our commercial success will depend on obtaining and maintaining patent protection and trade secret protection for our drug candidates and technologies and our successfully defending these patents against third-party challenges. We will only be able to protect our technologies from unauthorized use by third parties to the extent that valid and enforceable patents cover them or we maintain them as trade secrets.

With regard to our drug candidates directed to muscle biology targets, we have a U.S. patent covering omecamtiv mecarbil, U.S. patents covering our skeletal muscle sarcomere activators including, but not limited to reldesemtiv, and a U.S. patent covering aficamten, which expire in 2027, 2031 and 2039, respectively, unless extended or otherwise adjusted. We also have issued patents in various foreign jurisdictions and additional U.S. and foreign patent applications pending for these drug candidates. It is not known or determinable whether other patents will issue from any of our other pending applications or what the expiration dates would be for any other patents that do issue.

In relation to our collaborations, our partners may develop or have developed, solely or with us, intellectual property rights in connection with our drug candidates. Our collaboration agreements generally contain provisions regarding ownership, prosecution and maintenance, assignment and license rights to enable us to protect and benefit from intellectual property rights that are developed with or by our partners. For example, with respect to the Amgen Agreement, as a result of Amgen's election to terminate the Amgen Agreement, (i) licenses granted to Amgen under Cytokinetics controlled intellectual property under the Amgen Agreement have terminated and all rights to exploit and practice such intellectual property rights have reverted to us, (ii) Amgen has transferred and assigned to us all rights in and to any trademarks specific to omecamtiv mecarbil and other compounds subject to the Amgen Agreement, (iii) Amgen has granted to us an exclusive worldwide license to Amgen-controlled patent rights relating to omecamtiv mecarbil and other compounds subject to the Amgen Agreement and (iv) Amgen has granted to us a non-exclusive worldwide license with respect to Amgen's trade secrets that were developed or utilized by Amgen in connection with omecamtiv mecarbil and other compounds subject to the Amgen Agreement solely to develop, manufacture and commercialize omecamtiv mecarbil and such other compounds.

Our drug candidates are still in clinical development and have not yet been approved by the FDA. If any of these drug candidates are approved, then pursuant to federal law, we may apply for an extension of the U.S. patent term for one patent covering the approved drug, which could extend the term of the applicable patent by up to a maximum of five additional years.

The degree of future protection of our proprietary rights is uncertain because legal means may not adequately protect our rights or permit us to gain or keep our competitive advantage. Due to evolving legal standards relating to the patentability, validity and enforceability of patents covering pharmaceutical inventions and the claim scope of these patents, our ability to enforce our existing patents and to obtain and enforce patents that may issue from any pending or future patent applications is uncertain and involves complex legal, scientific and factual questions. The standards that the U.S. Patent and Trademark Office and its foreign counterparts use to grant patents are not always applied predictably or uniformly and are subject to change. To date, no consistent policy has emerged regarding the breadth of claims allowed in biotechnology and pharmaceutical patents. Thus, we cannot be sure that any patents will issue from any pending or future patent applications owned by, co-owned by, or licensed to us. Even if patents do issue, we cannot be sure that the claims of these patents will be held valid or enforceable by a court of law, will provide us with any significant protection against competitive products, or will afford us a commercial advantage over competitive products. For example:

- we or our licensors might not have been the first to make the inventions covered by each of our pending patent applications or issued patents;
- we or our licensors might not have been the first to file patent applications for the inventions covered by our pending patent applications or issued patents;
- others may independently develop similar or alternative technologies or duplicate any of our technologies without infringing our intellectual property rights;
- some or all of our or our licensors' pending patent applications may not result in issued patents or the claims that issue may be narrow in scope and not provide us with competitive advantages;

- our and our licensors' issued patents may not provide a basis for commercially viable drugs or therapies or may be challenged and invalidated by third parties;
- our or our licensors' patent applications or patents may be subject to interference, post-grant proceedings, opposition or similar legal and administrative proceedings that may result in a reduction in their scope or their loss altogether;
- we may not develop additional proprietary technologies or drug candidates that are patentable; or
- the patents of others may prevent us or our partners from discovering, developing or commercializing our drug candidates.

The defense and prosecution of intellectual property infringement suits, interferences, post-grant proceedings, oppositions and related legal and administrative proceedings are costly, time-consuming to pursue and divert resources. The outcome of these types of proceedings is uncertain and could significantly harm our business. For example, an unknown third party has filed an opposition against a granted European patent relating to compositions of omecamtiv mecarbil. Although we are defending the patent, we cannot be certain that the patent will be upheld as valid. If our European patent is invalidated, our intellectual property position in Europe could be weakened and it could have a negative impact on our business.

Our ability to commercialize drugs depends on our ability to use, manufacture and sell those drugs without infringing the patents or other proprietary rights of third parties. U.S. and foreign issued patents and pending patent applications owned by third parties exist that may be relevant to the therapeutic areas and chemical compositions of our drug candidates. While we are aware of certain relevant patents and patent applications owned by third parties, there may be issued patents or pending applications of which we are not aware that could cover our drug candidates. Because patent applications are often not published immediately after filing, there may be currently pending applications, unknown to us, which could later result in issued patents that our activities with our drug candidates could infringe.

The development of our drug candidates and the commercialization of any resulting drugs may be impacted by patents of companies engaged in competitive programs with significantly greater resources. This could result in the expenditure of significant legal fees and management resources.

We also rely on trade secrets to protect our technology, especially where we do not believe patent protection is appropriate or obtainable. However, trade secrets are often difficult to protect, especially outside of the United States. While we believe that we use reasonable efforts to protect our trade secrets, our employees, consultants, contractors, partners and other advisors may unintentionally or willfully disclose our trade secrets to competitors. Enforcing a claim that a third party had illegally obtained and is using our trade secrets would be expensive and time-consuming, and the outcome would be unpredictable. Even if we are able to maintain our trade secrets as confidential, our competitors may independently develop information that is equivalent or similar to our trade secrets.

We seek to protect our intellectual property by requiring our employees, consultants, contractors and other advisors to execute nondisclosure and invention assignment agreements upon commencement of their employment or engagement, through which we seek to protect our intellectual property. Agreements with our employees also preclude them from bringing the proprietary information or materials of third parties to us. We also require confidentiality agreements or material transfer agreements from third parties that receive our confidential information or materials.

For further details on the risks relating to our intellectual property, please see the risk factors under Item 1A of this report, including, but not limited to, the risk factors entitled "Our success depends substantially upon our ability to obtain and maintain intellectual property protection relating to our drug candidates and research technologies" and "If we are sued for infringing third-party intellectual property rights, it will be costly and time-consuming, and an unfavorable outcome would have a significant adverse effect on our business."

Compliance with Government Regulation

The FDA and comparable regulatory agencies in state and local jurisdictions and in foreign countries impose substantial requirements upon the clinical development, manufacture, marketing and distribution of drugs. These agencies and other federal, state and local entities regulate research and development activities and the testing, manufacture, quality control, labeling, storage, record keeping, approval, advertising and promotion of our drug candidates and drugs.

In the United States, the FDA regulates drugs under the Federal Food, Drug and Cosmetic Act and implementing regulations. The process required by the FDA before our drug candidates may be marketed in the United States generally involves the following:

- completion of extensive preclinical laboratory tests, preclinical animal studies and formulation studies, all performed in accordance with the FDA's good laboratory practice regulations;
- submission to the FDA of an IND, which must become effective before clinical trials may begin;

- performance of adequate and well-controlled clinical trials to establish the safety and efficacy of the drug candidate for each proposed indication in accordance with good clinical practices;
- submission of a NDA to the FDA, which must usually be accompanied by payment of a substantial user fee;
- satisfactory completion of an FDA preapproval inspection of the manufacturing facilities at which the product is produced to assess compliance with current good manufacturing practice ("cGMP") regulations and FDA audits of select clinical investigator sites to assess compliance with good clinical practices ("GCP"); and
- FDA review and approval of the NDA prior to any commercial marketing, sale or shipment of the drug.

Similar regulatory procedures generally apply in countries outside of the United States. This testing and approval process requires substantial time, effort and financial resources, and we cannot be certain that any approvals for our drug candidates will be granted on a timely basis, if at all.

Non-clinical tests include laboratory evaluation of product chemistry, formulation and stability, and studies to evaluate toxicity and pharmacokinetics in animals. The results of non-clinical tests, together with manufacturing information and analytical data, are submitted as part of an IND application to the FDA. The IND automatically becomes effective 30 days after receipt by the FDA, unless the FDA, within the 30-day period, raises concerns or questions about the conduct of the proposed clinical trial, including concerns that human research subjects may be exposed to unreasonable health risks. In such a case, the IND sponsor and the FDA must resolve any outstanding concerns before the clinical trial can begin. Our submission of an IND or a foreign equivalent, or those of our collaborators, may not result in authorization from the FDA or its foreign equivalent to commence a clinical trial. A separate submission to an existing IND must also be made for each successive clinical trial conducted during product development. Further, an independent institutional review board ("IRB") or its foreign equivalent for each medical center proposing to conduct the clinical trial must review and approve the plan for any clinical trial before it commences at that center and it must monitor the clinical trial until completed. The FDA, the IRB or their foreign equivalents, or the clinical trial sponsor may suspend a clinical trial at any time on various grounds, including a finding that the subjects or patients are being exposed to an unacceptable health risk.

Clinical Trials. For purposes of an NDA or equivalent submission and approval, clinical trials are typically conducted in the following three sequential phases, which may overlap:

- *Phase 1:* Phase 1 trials include the initial introduction of a drug candidate into humans. These studies may be conducted in patients, but are usually conducted in healthy volunteer subjects. These studies are designed to determine the metabolic and pharmacologic actions of the drug candidate in humans, the side effects associated with increasing doses, and, if possible, to gain early evidence on effectiveness.
- *Phase 2:* Phase 2 trials include the early controlled clinical studies conducted to obtain some preliminary data on the effectiveness of the drug candidate for a particular indication or indications in patients with the disease or condition. This phase of testing also helps determine the common short-term side effects and risks associated with the drug candidate. These clinical trials are generally conducted in a limited patient population to identify possible adverse effects and safety risks, to make an initial determination of potential efficacy of the drug candidate for specific targeted indications and to determine dose tolerance and optimal dosage. Multiple Phase 2 clinical trials may be conducted by the sponsor to obtain information prior to beginning larger and more expensive Phase 3 clinical trials. Phase 2a clinical trials generally are designed to study the pharmacokinetic or pharmacodynamic properties and to conduct a preliminary assessment of safety of the drug candidate over a measured dose response range. In some cases, a sponsor may decide to conduct a Phase 2b clinical trial, which is a second, typically larger, confirmatory Phase 2 trial that could, if positive and accepted by a regulatory authority, support approval of a drug candidate.
- *Phase 3:* Phase 3 clinical trials are then undertaken in large patient populations to further evaluate dosage, to provide substantial evidence of clinical efficacy and to further test for safety in an expanded and diverse patient population at multiple, geographically dispersed clinical trial sites. Phase 3 trials are also intended to provide an adequate basis for extrapolating the results to the general population and transmitting that information in the drug labeling. Phase 3 studies usually include several hundred to several thousand people, and are usually longer in duration than Phase 2 trials.

At any time during the conduct of a clinical trial, the FDA or a foreign equivalent can impose a clinical hold on the trial if it believes the trial is unsafe or that the protocol is clearly deficient in design in meeting its stated objectives, which requires the conduct of the trial to cease until the clinical hold is removed. In some cases, the FDA or foreign equivalent may condition approval of marketing approval for a drug candidate on the sponsor's agreement to conduct additional clinical trials to further assess the drug's safety and effectiveness after marketing approval, known as Phase 4 clinical trials.

The clinical trials we conduct for our drug candidates, both before and after approval, and the results of those trials, are generally required to be included in a clinical trials registry database that is available and accessible to the public via the internet. A failure by us to properly participate in the clinical trial database registry could subject us to significant civil monetary penalties.

Health care providers in the United States, including research institutions from which we or our partners obtain patient information, are subject to privacy rules under the Health Insurance Portability and Accountability Act of 1996 and state and local privacy laws. In the European Union (the "E.U."), these entities are subject to the Directive 95/46-EC of the European Parliament on the protection of individuals with regard to the processing of personal data and individual E.U. member states implementing additional legislation. The General Data Protection Regulation (E.U.) 2016/679 is a regulation in E.U. law on data protection and privacy for all individuals within the E.U. and the European Economic Area. Other countries have similar privacy legislation. We could face substantial penalties if we knowingly receive individually identifiable health information from a health care provider that has not satisfied the applicable privacy laws. In addition, certain privacy laws and genetic testing laws may apply directly to our operations and/or those of our partners and may impose restrictions on the use and dissemination of individuals' health information and use of biological samples.

New Drug/Marketing Approval Application. The results of drug candidate development, preclinical testing and clinical trials are submitted to the FDA as part of an NDA. The NDA also must contain extensive manufacturing information. In addition, the FDA may require that a proposed Risk Evaluation and Mitigation Strategy, also known as a REMS, be submitted as part of the NDA if the FDA determines that it is necessary to ensure that the benefits of the drug outweigh its risks. Similar, and in some cases additional, requirements apply in foreign jurisdictions for marketing approval applications for drugs in those jurisdictions. The FDA may refer the NDA to an advisory committee for review, evaluation and recommendation as to whether the application should be approved. The FDA often, but not always, follows the advisory committee's recommendations. The FDA may also require preapproval inspections of manufacturing operations and clinical trial sites during the course of NDA review, and findings arising from any of these inspections may delay or prevent the approval of the NDA. The FDA may deny approval of an NDA by issuing a complete response letter if the applicable regulatory criteria are not satisfied, or it may require additional clinical data, including data in a pediatric population, or an additional Phase 3 clinical trial or impose other conditions that must be met in order to secure final approval for an NDA.

Even if such data are submitted, the FDA may ultimately decide that the NDA does not satisfy the criteria for approval. Data from clinical trials are not always conclusive and the FDA may interpret data differently than we or our partners do. Once issued, the FDA or foreign equivalent may withdraw a drug approval if ongoing regulatory requirements are not met or if safety problems occur after the drug reaches the market. In addition, the FDA or its foreign counterparts may require further testing, including Phase 4 clinical trials, and surveillance or restrictive distribution programs to monitor the effect of approved drugs which have been commercialized. The FDA and its foreign counterparts have the power to prevent or limit further marketing of a drug based on the results of these post-marketing programs. Drugs may be marketed only for the approved indications and in accordance with the provisions of the approved label. 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 may be subject to significant liability. However, physicians may, in their independent medical judgment, prescribe legally available products for off-label uses. The FDA does not regulate the behavior of physicians in their choice of treatments but the FDA does restrict manufacturer's communications on the subject of off-label use of their products. Further, if there are any modifications to a drug, including changes in indications, labeling or manufacturing processes or facilities, we may be required to submit and obtain prior FDA approval of a new NDA or NDA supplement, or the foreign equivalent, which may require us to develop additional data or conduct additional preclinical studies and clinical trials.

Satisfaction of FDA regulations and requirements or similar regulations and requirements of state, local and foreign regulatory agencies typically takes several years. The actual time required may vary substantially based upon the type, complexity and novelty of the drug candidate or disease. Government regulation may delay or prevent marketing of drug candidates for a considerable period of time and impose costly procedures upon our activities. The FDA or any other regulatory agency may not grant approvals for new indications for our drug candidates on a timely basis, if at all. Even if a drug candidate receives regulatory approval, the approval may be significantly limited to specific disease states, patient populations and dosages or restrictive distribution programs. Further, even after regulatory approval is obtained, later discovery of previously unknown problems with a drug may result in restrictions on the drug or even complete withdrawal of the drug from the market. Delays in obtaining, or failures to obtain, regulatory approvals for any of our drug candidates would harm our business. In addition, we cannot predict what future U.S. or foreign governmental regulations may be implemented.

Orphan Drug Designation. Some jurisdictions, including the United States, may designate drugs for relatively small patient populations as orphan drugs. The FDA grants orphan drug designation to drugs intended to treat a rare disease or condition, which is generally a disease or condition that affects fewer than 200,000 individuals in the United States.

An FDA orphan drug designation does not shorten the duration of the regulatory review and approval process. If a drug candidate that has an orphan drug designation receives the first FDA marketing approval for the indication for which the designation was granted, then the approved drug is entitled to orphan drug exclusivity. This means that the FDA may not approve another company's application to market the same drug for the same indication for a period of seven years, except in certain circumstances, such as a showing of clinical superiority to the drug with orphan exclusivity or if the holder of the orphan drug designation cannot assure the availability of sufficient quantities of the orphan drug to meet the needs of patients with the disease or condition for which the designation was granted. Competitors may receive approval of different drugs or biologics for the indications for which the orphan drug has exclusivity.

Special Protocol Assessment. A sponsor may request a Special Protocol Assessment, or SPA, agreement with FDA on the Phase 3 clinical trial protocol design and analysis that will form the primary basis of an efficacy claim. Even if the FDA agrees to the design, execution and analyses proposed in protocols reviewed under the SPA process, the FDA may revoke or alter its agreement if public health concerns emerge that were unrecognized at the time of the SPA agreement, or a substantial scientific issue essential to determining safety or efficacy is identified after testing has begun. An SPA does not guarantee that an NDA will be approved.

Other Regulatory Requirements. Any drugs manufactured or distributed by us or our partners pursuant to FDA approvals or their foreign counterparts are subject to continuing regulation by the applicable regulatory authority, including recordkeeping requirements and reporting of adverse experiences associated with the drug. Drug manufacturers and their subcontractors are required to register their establishments with the FDA and other applicable regulatory authorities, and are subject to periodic unannounced inspections by these regulatory authorities for compliance with ongoing regulatory requirements, including cGMPs, which impose certain procedural and documentation requirements upon us and our third-party manufacturers. Failure to comply with the statutory and regulatory requirements can subject a manufacturer to possible legal or regulatory action, such as warning letters, suspension of manufacturing, seizure of product, injunctive action or possible civil penalties. We cannot be certain that we or our present or future third-party manufacturers or suppliers will be able to comply with the cGMP regulations and other ongoing FDA and other regulatory requirements. If our present or future third-party manufacturers or suppliers are not able to comply with these requirements, the FDA or its foreign counterparts may halt our or our partners' clinical trials, require us to recall a drug from distribution, or withdraw approval of the NDA for that drug.

For further details on the risks relating to government regulation of our business, please see the risk factors under Item 1A of this report, including, but not limited to, the risk factor entitled "The regulatory approval process is expensive, time-consuming and uncertain and may prevent our partners or us from obtaining approvals to commercialize some or all of our drug candidates."

Other Healthcare Laws. We are currently or will in the future be subject to healthcare regulation and enforcement by the federal government and the states in which we will conduct our business once our product candidates are approved by the FDA and commercialized in the United States. In addition to the FDA's restrictions on marketing of pharmaceutical products, the U.S. healthcare laws and regulations that may affect our ability to operate include: the federal fraud and abuse laws, including the federal anti-kickback and false claims laws; federal data privacy and security laws; and federal transparency laws related to payments and/or other transfers of value made to physicians and other healthcare professionals and teaching hospitals. Many states have similar laws and regulations that may differ from each other and federal law in significant ways, thus complicating compliance efforts. For example, states have anti-kickback and false claims laws that may be broader in scope than analogous federal laws and may apply regardless of payer. In addition, state data privacy laws that protect the security of health information may differ from each other and may not be preempted by federal law. Moreover, several states have enacted legislation requiring pharmaceutical manufacturers to, among other things, establish marketing compliance programs, file periodic reports with the state, make periodic public disclosures on sales and marketing activities, report information related to drug pricing, require the registration of sales representatives, and prohibit certain other sales and marketing practices. If our operations are found to be in violation of these laws, we may be subject to significant civil, criminal, and administrative penalties, including, without limitation, damages, fines, imprisonment, exclusion from participation in government healthcare programs, additional reporting obligations and oversight if we become subject to a corporate integrity agreement or other agreement to resolve allegations of non-compliance with these laws, and the curtailment or restructuring of our operations, any of which could adversely affect our ability to operate our business and our results of operations.

Health Care Reform. Additionally, in the United States and some foreign jurisdictions there have been, and continue to be, several legislative and regulatory changes and proposed reforms of the healthcare system in an effort to contain costs, improve quality, and expand access to care. These reform initiatives may, among other things, result in modifications to the aforementioned laws and/or the implementation of new laws affecting the healthcare industry. Similarly, a significant trend in the healthcare industry is cost containment. Third-party payors have attempted to control costs by limiting coverage and the amount of reimbursement for particular medications. Moreover, in the United States, there have been several recent Congressional inquiries, presidential executive orders and proposed and enacted federal and state legislation designed to, among other things, bring more transparency to drug pricing, review the relationship between pricing and manufacturer patient programs, and reform government program reimbursement methodologies for drugs.

Coverage and Reimbursement. Our ability to commercialize any of our products successfully will depend in part on the extent to which coverage and adequate reimbursement for these products and will be available from third-party payors. The principal decisions about reimbursement for new medicines are typically made by the Centers for Medicare & Medicaid Services, an agency within the U.S. Department of Health and Human Services, or HHS. CMS decides whether and to what extent products will be covered and reimbursed under Medicare and private payors tend to follow CMS to a substantial degree. Even if we obtain coverage for a given drug product, the associated reimbursement rate may not be adequate to cover our costs, including research, development, intellectual property, manufacture, sale and distribution expenses, or may require co-payments that patients find unacceptably high. Coverage and reimbursement policies for drug products can differ significantly from payor to payor as there is no uniform policy of coverage and reimbursement for drug products among third-party payors in the United States. Reimbursement by a third-party payor may depend upon a number of factors, including the third-party payor's determination that a product is safe, effective and medically necessary; and neither cosmetic, experimental nor investigational. In order to secure coverage and reimbursement for any product that might be approved for sale, we may need to conduct expensive pharmacoeconomic studies in order to demonstrate the medical necessity and cost-effectiveness of our approved products. There may be significant delays in obtaining coverage and reimbursement as the process of determining coverage and reimbursement is often time-consuming and costly. Further, coverage policies and third party reimbursement rates may change at any time.

Cytokinetics Human Capital

As of December 31, 2021, we had 253 employees and 114 consultants. 29 of those employees have more than 10 years tenure with us and 68 have over 5 years of service. In 2021 our turnover was 12%, which we believe is a lower attrition rate compared to the industry.

We are committed to fostering and maintaining a culture that engenders collaboration and teamwork, inclusion, respect, transparency and candor. Furthermore, we provide our employees with an array of professional development resources and tools to support their learning, growth and development opportunities. We were honored to be recognized as a San Francisco Times Best Place to Work in 2021.

Our compensation and benefit programs are designed to enable us to attract and retain the best employees in a very competitive life science sector and regularly benchmark and survey the market to ensure we maintain competitive programs and ensuring employees receive equal pay for equal work. In addition, we routinely survey our employees to measure engagement, identify and take action on opportunities for improvement, and share these results with employees.

We have a rigorous annual goal setting and goal evaluation process under the supervision of our Board of Directors and senior management to assist our employees in understanding what is expected of them individually and as an organization.

The company is going into its second year of implementing a Diversity, Equity, Inclusion and Respect program and are fully committed across all aspects of our organization including recruiting and hiring, development and promotion practices. 31% of director-level and above positions were held by ethnic or racial minorities. 43% of director-level and above positions were held by women.

Our Compensation and Talent Committee of the Board of Directors reviews employee engagement, reward programs, human resource metrics, including attrition, retention and staffing on an on-going basis.

COVID-19 Business Update

We are continuing to closely monitor the impact of the global COVID-19 pandemic on our business and continue to take proactive efforts designed to protect the health and safety of our employees, patients, study investigators and clinical research staff, and to maintain business continuity. We believe that the measures we are implementing are appropriate and are helping to reduce the transmission of COVID-19, and we will continue to monitor and seek to comply with guidance from governmental authorities and adjust our activities as appropriate.

Based on guidance issued by federal, state and local authorities, we transitioned to a remote work model for a vast majority of our employees effective March 16, 2020, while maintaining certain essential in-person laboratory functions in order to advance key research and development initiatives, supported by the implementation of updated onsite procedures. We have since implemented a voluntary return to work for our employees subject to precautionary measures such as mandatory temperature checks for those employees that do work on site from time to time. We are currently accommodating both our employees who wish to work onsite on a several days per week basis and those employees who wish to work entirely remotely. We expect our employees to be returning to onsite work in larger numbers over the next few months and that the vast majority will have chosen to be vaccinated against COVID-19. We will continue to monitor the evolution of the pandemic and take appropriate precautionary actions in accordance with applicable laws and guidelines.

In the conduct of our business activities, we are also taking actions designed to protect the safety of patients and healthcare professionals. For patients already enrolled in our clinical trials, we and our partners are working closely with study investigators and clinical trial site staff to continue treatment in compliance with trial protocols and to uphold trial integrity, while working to observe government and institutional guidelines designed to safeguard the health and safety of patients and site staff.

While the potential economic impact brought by, and the duration of, the COVID-19 pandemic may be difficult to assess or predict, the pandemic could result in significant and prolonged disruption of global financial markets, reducing our ability to access capital, which could in the future negatively affect our liquidity. In addition, a recession or market correction resulting from the spread of COVID-19 could materially affect our business and the value of our common stock.

While we expect the COVID-19 pandemic to continue to affect our business operations, the extent of the impact on our clinical development and regulatory efforts and the value of and market for our common stock will depend on future developments that are highly uncertain and cannot be predicted with confidence at this time, such as the ultimate duration of the pandemic, travel restrictions, quarantines, social distancing and business closure requirements in the U.S. and in other countries, and the effectiveness of actions taken globally to contain and treat COVID-19. For additional information about risks and uncertainties related to the COVID-19 pandemic that may impact our business, our financial condition and our results of operations, see the section titled “Risk Factors” under Part I, Item 1A in this Annual Report on Form 10-K.

Investor Information

We file electronically with the SEC our annual reports on Form 10-K, quarterly reports on Form 10-Q and current reports on Form 8-K pursuant to Section 13 or 15(d) of the Exchange Act. The SEC maintains an Internet site that contains reports, proxy and information statements, and other information regarding issuers that file electronically with the SEC. The address of that site is www.sec.gov.

You may obtain a free copy of our annual reports on Form 10-K, quarterly reports on Form 10-Q and current reports on Form 8-K and amendments to those reports on the day of filing with the SEC on our website at www.cytokinetics.com or by contacting the Investor Relations Department at our corporate offices by calling 650-624-3060. The information found on our website is not part of this or any other report filed with or furnished to the SEC.

ITEM 1A. RISK FACTORS

In evaluating our business, you should carefully consider the following risks in addition to the other information in this report. Any of the following risks could materially and adversely affect our business, results of operations, financial condition or your investment in our securities, and many are beyond our control. The risks and uncertainties described below are not the only ones facing us. Additional risks and uncertainties not presently known to us, or that we currently see as immaterial, may also adversely affect our business.

Risks Related to Our Business

We have a history of significant losses and may not achieve or sustain profitability and, as a result, you may lose part or all of your investment.

We have generally incurred operating losses in each year since our inception in 1997, due to costs incurred in connection with our research and development activities and general and administrative costs associated with our operations. Our drug candidates are all in early through late-stage clinical testing, and we and our partners must conduct significant additional clinical trials before we and our partners can seek the regulatory approvals necessary to begin commercial sales of our drugs. We expect to incur increasing losses for at least several more years, as we continue our research activities and conduct development of, and seek regulatory approvals for, our drug candidates, and commercialize any approved drugs. If our drug candidates fail or do not gain regulatory approval, or if our drugs do not achieve market acceptance, we will not be profitable. If we fail to become and remain profitable, or if we are unable to fund our continuing losses, you could lose part or all of your investment.

We will need substantial additional capital in the future to sufficiently fund our operations.

We have consumed substantial amounts of capital to date, and our operating expenditures will increase over the next several years if we expand our research and development activities and expand our organization to prepare for commercialization of any approved drug. We have funded our operations and capital expenditures with proceeds primarily from private and public sales of our equity securities, royalty monetization agreements, revenue interest agreements, strategic alliances, long-term debt, other financings, interest on investments and grants. We believe that our existing cash and cash equivalents, short-term investments and interest earned on investments should be sufficient to meet our projected operating requirements for at least the next 12 months. We have based this estimate on assumptions that may prove to be wrong, and we could utilize our available capital resources sooner than we currently expect. Because of the numerous risks and uncertainties associated with the development of our drug candidates and other research and development activities, including risks and uncertainties that could impact the rate of progress of our development activities, we are unable to estimate with certainty the amounts of capital outlays and operating expenditures associated with these activities.

For the foreseeable future, our operations will require significant additional funding, in large part due to our research and development expenses, the organizational scale up and associated expenditures with commercial readiness activities to launch approved drugs combined with the absence of any revenues from product sales. For example, we are preparing for a launch of omecamtiv mecarbil in the U.S. requiring additional hiring and investment, and we will also require significant additional funding to enable us to conduct further development of our product candidates. Until we can generate a sufficient amount of product revenue, we expect to raise future capital through strategic alliance and licensing arrangements, public or private equity offerings and debt financings. We do not currently have any commitments for future funding other than through loans under the RP Loan Agreement with RPDF, potential additional revenue interest sale proceeds under the RP Aficamten RPA, and reimbursements, milestone and royalty payments that we may receive under our agreements with Astellas and Ji Xing. We may not receive any further funds under any of these agreements. Our ability to raise funds may be adversely impacted by current economic conditions. As a result of these and other factors, we do not know whether additional financing will be available when needed, or that, if available, such financing would be on terms favorable to our stockholders or us, and if we cannot raise the funds we need to operate our business, we will need to delay or discontinue certain research and development activities, and our stock price may be negatively affected.

We may not be entitled to obtain additional loan disbursements under the RP Loan Agreement or the RP Aficamten RPA.

On January 7, 2022, we announced that we had entered into the RP Loan Agreement and the RP Aficamten RPA with each of RPDF and RPI ICAV respectively, each such entity being affiliated with Royalty Pharma International plc. Together these agreements make available to us up to $150.0 million in revenue interest sale proceeds under the RP Aficamten RPA and up to $300.0 million in loans, of which a $50.0 million loan and $50.0 million in revenue interest sale proceeds were paid to us at the closing of such transactions. However, additional loan disbursements and sale proceeds are subject to our satisfaction of certain conditions related to the development of aficamten and omecamtiv mecarbil, in certain cases by specific deadlines. Should we not satisfy such conditions by the applicable deadlines, or in the event we fail to meet our obligations or default under these agreements, the actual amount of additional loan disbursements and/or sale proceeds could be substantially less than the maximum amounts available thereunder.

We are subject to counterparty risk under the RP Aficamten RPA and RP Loan Agreement

We are subject to counterparty risk in the event that either RPDF or RP ICAV default on their respective obligations under the RP Loan Agreement or the RP Aficamten RPA respectively.

In respect of the RP Aficamten RPA, our ability to receive additional revenue interest sale proceeds is subject to the risk that RPI ICAV may default or otherwise fail to perform its obligations thereunder to pay us additional revenue interest sale proceeds that we would be entitled to upon satisfaction of certain conditions. In such event, subject to a cure right of RPI ICAV, we will have a limited right to reduce the amount of royalty payable by unless such obligation is contested in good faith, but otherwise our exposure to the credit risk of RPI ICAV will not be secured by any collateral. If RPI ICAV becomes subject to insolvency proceedings, we will become an unsecured creditor in those proceedings with a claim equal to our exposure at the time under such transaction and without any reversion of the revenue interest having been sold to RPI ICAV (other than the aforementioned reduction) and without any recourse against Royalty Pharma International plc or any of its other affiliated or controlled entities.

In respect of the RP Loan Agreement, our ability to receive additional loan disbursements is subject to the risk that RPDF may default or otherwise fail to perform its obligations thereunder to extend additional loan disbursement that we would be entitled to upon satisfaction of certain conditions. In such event, we have no recourse against Royalty Pharma International plc or any of its other affiliated or controlled entities, and in the event of an RPDF insolvency, we would have no rights to additional loan disbursements from RPDF.

Our business is currently adversely affected and could be materially and adversely affected in the future by the effects of disease outbreaks, epidemics and pandemics, including the ongoing COVID-19 pandemic. The COVID-19 pandemic continues to adversely impact our business and could materially and adversely affect our operations, as well as the businesses or operations of our or our partners, manufacturers, CROs or other third parties with whom we or our partners conduct business.

Disease outbreaks and epidemics in regions where we, our partners or other third parties on which we rely have manufacturing facilities, clinical trial sites or other important operations or pandemics such as the COVID-19 pandemic could adversely affect our business, including by causing significant disruptions in our operations and/or in the operations of third-party manufacturers and CROs upon whom we rely. For example, in March 2020, the World Health Organization declared the COVID-19 outbreak a pandemic, and the pandemic has presented a substantial public health and economic challenge around the world and is affecting employees, patients, communities and business operations, as well as the U.S. economy and financial markets. In this regard, the COVID-19 pandemic and government measures taken in response have had a significant impact, both direct and indirect, on business and commerce, as significant reductions in business-related activities have occurred, supply chains have been disrupted and manufacturing and clinical development activities have been curtailed or suspended.

Remote work policies, quarantines, shelter-in-place and similar governmental orders, shutdowns or other restrictions on the conduct of business operations related to the COVID-19 pandemic could materially and adversely affect our operations. Based on guidance issued by federal, state and local authorities, we have implemented a voluntary work-from-home policies for our employees. The effects of the safer community order and our work-from-home and voluntary work-on-site policies may negatively impact productivity, disrupt our, or our partners to which we rely, business and delay clinical programs and timelines, the magnitude of which will depend, in part, on the length and severity of the restrictions and other limitations on the ability to conduct business in the ordinary course. In connection with these measures, we may be subject to claims based upon, arising out of, or related to COVID-19 and our actions and responses thereto, including any determinations that we have made and may in the future make with respect to our onsite operations. These and similar, and perhaps more severe, disruptions in operations could negatively impact our business, operating results and financial condition.

In addition, our clinical trials or those conducted by our partners may continue to be adversely affected by the COVID-19 pandemic. For example, in 2020 we temporarily suspended enrollment in METEORIC-HF and REDWOOD-HCM due to the COVID-19 pandemic, although we subsequently resumed enrollment in both trials. Clinical site initiation, conduct, and patient enrollment has been and may continue to be delayed due to prioritization of medical resources toward the COVID-19 pandemic and restrictions on the ability to travel. It may not be possible to carry out some aspects of clinical trial protocols if quarantines or other restrictions impede patient movement or interrupt healthcare services. It may be necessary to suspend enrollment at some or all clinical trial sites to comply with shelter in place orders, and to reduce the risk to patients, their caretakers, and healthcare providers from contracting COVID-19. Patients may be forced to quarantine or comply with shelter-in-place orders or may refuse home healthcare visits, particularly in medically vulnerable patient populations. Similarly, principal investigators and site staff who, as healthcare providers, may have heightened exposure to COVID-19 but also may be pulled into clinical care and away from clinical research, may adversely impact our or our partner’s clinical trial operations. Further, our clinical trial patients who contract COVID-19 may (i) experience unexpected adverse medical events that could be wrongfully attributable to our investigational drugs, and (ii) experience endpoint events because of COVID-19 that could confound the interpretation of data and results relating to our investigational drugs arising from our clinical trials. Other key clinical trial activities, such as clinical trial site data monitoring and site inspections, may also be adversely affected due to limitations on travel imposed or recommended by governmental authorities, which may impact the integrity of subject data and clinical study endpoints. Finally, disruptions in our supply chain due to loss of the ability of sites to dispense study drug, travel and import/export restrictions or lack of raw materials may result in an interruption, or delays in receiving, supplies of our drug candidates from our contract manufacturing organizations or study sites, which in turn may also adversely affect our clinical trials.

The spread of COVID-19, which has caused a broad impact globally, may materially affect us economically. While the potential economic impact brought by, and the duration of, COVID-19 may be difficult to assess or predict, a widespread pandemic could result in significant disruption of global financial markets, reducing our ability to access capital, which could in the future negatively affect our liquidity. In addition, a recession or market correction resulting from the spread of COVID-19 could materially affect our business and the value of our common stock.

The ultimate impact of the COVID-19 pandemic or a similar health epidemic is highly uncertain and subject to change. We do not yet know the full extent of potential delays or impacts on our business, our clinical trials, healthcare systems or the global economy as a whole. However, these effects could have a material impact on our operations, and we will continue to monitor the COVID-19 situation closely.

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

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

Disruptions at the FDA and other agencies may also slow the time necessary for new drugs to be reviewed and/or approved by necessary government agencies, which would adversely affect our business. For example, over the last several years, including for 35 days beginning on December 22, 2018, the U.S. government has shut down several times and certain regulatory agencies, such as the FDA, have had to furlough critical FDA employees and stop critical activities. If a prolonged government shutdown occurs, it could significantly impact the ability of the FDA to timely review and process our regulatory submissions, which could have a material adverse effect on our business.

Separately, in response to the global COVID-19 pandemic, the FDA had a period during which manufacturing inspections were not conducted, leading to delay, and has resumed on-site inspections of domestic manufacturing facilities subject to a risk-based prioritization system. The FDA intends to use this risk-based assessment system to identify the categories of regulatory activity that can occur within a given geographic area, ranging from mission critical inspections to resumption of all regulatory activities. Regulatory authorities outside the United States may adopt similar restrictions or other policy measures in response to the COVID-19 pandemic. If a prolonged government shutdown occurs, or if global health concerns continue to prevent the FDA or other regulatory authorities from conducting their regular inspections, reviews, or other regulatory activities, it could significantly impact the ability of the FDA or other regulatory authorities to timely review and process our regulatory submissions, which could have a material adverse effect on our business.

Our indebtedness and liabilities could limit the cash flow available for our operations, expose us to risks that could adversely affect our business, financial condition and results of operations and impair our ability to satisfy our obligations under the 2026 Notes and our Term Loan.

As of December 31, 2021, we had $183.0 million aggregate principal amount of indebtedness, comprised of $45.0 million under our Loan and Security Agreement, dated as of May 17, 2019 (the “Term Loan Agreement”) with Oxford Finance LLC (“Oxford”), as collateral agent, and Silicon Valley Bank and Oxford as lenders, and $138.0 million under our convertible senior notes due 2026, or the 2026 Notes. In early January 2022, we repaid in full all amounts outstanding under the Term Loan Agreement with Oxford and Silicon Valley Bank in anticipation of entering into the RP Loan Agreement.

We may also incur additional indebtedness to meet future financing needs. Our indebtedness could have significant negative consequences for our security holders and our business, results of operations and financial condition by, among other things:

- increasing our vulnerability to adverse economic and industry conditions;
- limiting our ability to obtain additional financing;
- requiring the dedication of a substantial portion of our cash flow from operations to service our indebtedness, which will reduce the amount of cash available for other purposes;
- limiting our flexibility to plan for, or react to, changes in our business;
- diluting the interests of our existing stockholders as a result of issuing shares of our common stock upon conversion of the notes; and

- placing us at a possible competitive disadvantage with competitors that are less leveraged than us or have better access to capital.

Our business may not generate sufficient funds, and we may otherwise be unable to maintain sufficient cash reserves, to pay amounts due under our indebtedness, including the 2026 Notes, and our cash needs may increase in the future. In addition, any required repurchase of the 2026 Notes for cash as a result of a fundamental change would lower our current cash on hand such that we would not have those funds available for us in our business. Further any future indebtedness that we may incur may contain financial and other restrictive covenants that limit our ability to operate our business, raise capital or make payments under our other indebtedness. If we fail to comply with these covenants or to make payments under our indebtedness when due, then we would be in default under that indebtedness, which could, in turn, result in that and our other indebtedness becoming immediately payable in full.

Covenants in the RP Loan Agreement, the RP Aficamten RPA, the RP OM RPA, and the indenture related to the 2026 Notes restrict our business and operations in many ways and if we do not effectively manage our covenants, our financial conditions and results of operations could be adversely affected. Our operations may not provide sufficient cash to meet our debt repayment obligations.

The RP Loan Agreement, the RP Aficamten RPA, the RP OM RPA, and the indenture related to the 2026 Notes require that we comply with certain covenants applicable to us, including among other things, covenants restricting dispositions, changes in business, management, ownership or business locations, mergers or acquisitions, indebtedness, encumbrances, distributions, investments, transactions with affiliates and subordinated debt, any of which could restrict our business and operations, particularly our ability to respond to changes in our business or to take specified actions to take advantage of certain business opportunities that may be presented to us. In addition, the RP Aficamten RPA and the RP OM RPA contain certain covenants applicable to us, including among other things, development and commercialization diligence obligations in connection to aficamten and omecamtiv mecarbil and reporting obligations, which could also restrict our business and operations, particularly in connection to our development and commercialization of aficamten and omecamtiv mecarbil.

Our failure to comply with any of the covenants could result in a default under the RP Loan Agreement, the RP Aficamten RPA, the RP OM RPA, or the indenture related to the 2026 Notes, which could permit the counterparties to declare all or part of any outstanding borrowings or other payment obligations to be immediately due and payable and/or enforce any outstanding liens against our assets.

We have no rights to repurchase the revenue interests in omecamtiv mecarbil or aficamten sold to RPFT or RPI ICAV respectively, thereby limiting our ability to eliminate future applicability of the covenants contained in the RP OM RPA and the RP Aficamten RPA, and although we do have voluntary prepayment rights under the RP Loan Agreement, any voluntary prepayment rights will require that we pay RPDF 190% of the principal amount of amounts disbursed to us, thereby making it potentially disadvantageous to voluntarily prepay RPDF prior to the final maturity date applicable to loans outstanding under the RP Loan Agreement.

In addition, certain provisions in the 2026 Notes and the related indenture could make a third party attempt to acquire us more difficult or expensive. For example, if a takeover constitutes a fundamental change under our indenture, then noteholders will have the right to require us to repurchase their notes for cash. In addition, if a takeover constitutes a make-whole fundamental change under our indenture, then we may be required to temporarily increase the conversion rate. In either case, and in other cases, our obligations under the notes and the Indenture could increase the cost of acquiring us or otherwise discourage a third party from acquiring us or removing incumbent management, including in a transaction that noteholders or holders of our common stock may view as favorable.

Finally, should we be unable to comply with our covenants or if we default on any portion of our outstanding borrowings under the RP Loan Agreement, in addition to its rights to accelerate and demand for immediate repayment of amounts outstanding under the RP Loan Agreement, we would be liable for default interest at a rate of 4% over the prime rate.

We have never generated, and may never generate, revenues from commercial sales of our drugs and we may not have drugs to market for at least several years, if ever.

We currently have no drugs for sale and we cannot guarantee that we will ever develop or obtain approval to market any drugs. To receive marketing approval for any drug candidate, we must demonstrate that the drug candidate satisfies rigorous standards of safety and efficacy to the FDA in the United States and other regulatory authorities abroad. We and our partners will need to conduct significant research and preclinical and clinical testing before we or our partners can file applications with the FDA or other regulatory authorities for approval of any of our drug candidates. In addition, to compete effectively, our drugs must be easy to use, cost-effective, covered by insurance or government sponsored medical plans, and economical to manufacture on a commercial scale, compared to other therapies available for the treatment of the same conditions. We may not achieve any of these objectives. Currently, our clinical-stage drug candidates include omecamtiv mecarbil for the potential treatment of heart failure, reldesemtiv for the potential treatment of ALS and potentially other indications associated with muscle weakness, and aficamten for the potential treatment of HCM and potentially other indications. We cannot be certain that the clinical development of our current or any future drug candidates will be successful, that they will receive the regulatory approvals required to commercialize them, that they will ultimately be accepted by prescribers or reimbursed by insurers or that any of our other research programs will yield a drug candidate suitable for clinical testing or commercialization. Our commercial revenues, if any, will be derived from sales of drugs that may not be commercially marketed for several years, if at all. The development of any one or all of these drug candidates may be discontinued at any stage of our clinical trials programs and we may not generate revenue from any of these drug candidates.

Clinical trials may fail to demonstrate the desired safety and efficacy of our drug candidates, including aficamten and reldesemtiv, which could prevent or significantly delay completion of clinical development and regulatory approval.

Prior to receiving approval to commercialize any of our drug candidates, we or our partners must adequately demonstrate to the satisfaction of FDA and foreign regulatory authorities that the drug candidate is sufficiently safe and effective with substantial evidence from well-controlled clinical trials. We or our partners will need to demonstrate efficacy in clinical trials for the treatment of specific indications and monitor safety throughout the clinical development process and following approval. None of our drug candidates have yet met the safety and efficacy standards required for regulatory approval for commercialization and they may never do so. In addition, for each of our preclinical compounds, we or our partners must adequately demonstrate satisfactory chemistry, formulation, quality, stability and toxicity in order to submit an IND to the FDA, or an equivalent application in foreign jurisdictions, that would allow us to advance that compound into clinical trials. Furthermore, we or our partners may need to submit separate INDs (or foreign equivalent) to different divisions within the FDA (or foreign regulatory authorities) in order to pursue clinical trials in different therapeutic areas. Each new IND (or foreign equivalent) must be reviewed by the new regulatory division before the clinical trial under its jurisdiction can proceed, entailing all the risks of delay inherent to regulatory review. If our or our partners' current or future preclinical studies or clinical trials are unsuccessful, our business will be significantly harmed and our stock price could be negatively affected.

All of our drug candidates, including aficamten and reldesemtiv, are prone to the risks of failure inherent in drug development. Preclinical studies may not yield results that would adequately support the filing of an IND (or a foreign equivalent) with respect to our potential drug candidates. Even if the results of preclinical studies for a drug candidate are sufficient to support such a filing, the results of preclinical studies do not necessarily predict the results of clinical trials. As an example, because the physiology of animal species used in preclinical studies may vary substantially from other animal species and from humans, it may be difficult to assess with certainty whether a finding from a study in a particular animal species will result in similar findings in other animal species or in humans. For any of our drug candidates, the results from Phase 1 clinical trials in healthy volunteers and clinical results from Phase 1 and 2 trials in patients are not necessarily indicative of the results of later and larger clinical trials that are necessary to establish whether the drug candidate is safe and effective for the applicable indication. Likewise, interim results from a clinical trial may not be indicative of the final results from that trial, and results from early Phase 2 clinical trials may not be indicative of the results from later clinical trials. For example, early Phase 2 clinical trials of our first-generation FSTA, tirasemtiv, in patients with ALS showed encouraging dose-related trends in measurements of the ALSFRS-R, a clinically validated instrument designed to measure disease progression and changes in functional status, for patients receiving tirasemtiv compared to those receiving placebo. However, BENEFIT-ALS, a Phase 2b clinical trial of tirasemtiv in patients with ALS, did not achieve its primary efficacy endpoint, the mean change from baseline in the ALSFRS-R for patients receiving tirasemtiv compared to those receiving placebo, and in November 2017, we announced that VITALITY-ALS did not achieve its primary endpoint or secondary endpoints. Following the results of VITALITY-ALS, we suspended development of tirasemtiv.

Moreover, the Phase 2 clinical trial of reldesemtiv in COPD and Phase 1b clinical trial of reldesemtiv in elderly subjects with limited mobility did not show efficacy, and there can be no assurance that reldesemtiv will demonstrate efficacy in other indications, regardless of the phase of development.

In addition, while the clinical trials of our drug candidates are designed based on the available relevant information, such information may not accurately predict what actually occurs during the course of the trial itself, which may have consequences for the conduct of an ongoing clinical trial or for the eventual results of that trial. For example, the number of patients planned to be enrolled in a placebo-controlled clinical trial is determined in part by estimates relating to expected treatment effect and variability about the primary endpoint. These estimates are based upon earlier non-clinical and clinical studies of the drug candidate itself and clinical trials of other drugs thought to have similar effects in a similar patient population. If information gained during the conduct of the trial shows these estimates to be inaccurate, we may elect to adjust the enrollment accordingly, which may cause delays in completing the trial, additional expense or a statistical penalty to apply to the evaluation of the trial results.

Furthermore, in view of the uncertainties inherent in drug development, such clinical trials may not be designed with focus on indications, patient populations, dosing regimens, endpoints, safety, efficacy or pharmacokinetic parameters or other variables that will provide the necessary safety or efficacy data to support regulatory approval to commercialize the resulting drugs. For example, we believe that effects on respiratory function, including SVC, may be appropriate as a clinical endpoint for reldesemtiv; however, regulatory authorities may not accept these effects as a clinical endpoint to support registration of reldesemtiv for the treatment of ALS. Clinical trials of our drug candidates are designed based on guidance or advice from regulatory agencies, which is subject to change during the development of the drug candidate at any time. Such a change in a regulatory agency's guidance or advice may cause that agency to deem results from trials to be insufficient to support approval of the drug candidate and require further clinical trials of that drug candidate to be conducted. In addition, individual patient responses to the dose administered of a drug may vary in a manner that is difficult to predict. Also, the methods we select to assess particular safety, efficacy or pharmacokinetic parameters may not yield the same statistical precision in estimating our drug candidates' effects as may other methodologies. Even if we believe the data collected from clinical trials of our drug candidates are promising, these data may not be sufficient to support approval by the FDA or foreign regulatory authorities. Non-clinical and clinical data can be interpreted in different ways. Accordingly, the FDA or foreign regulatory authorities could interpret these data in different ways from us or our partners, which could delay, limit or prevent regulatory approval.

Furthermore, while planned interim analyses in clinical trials can enable early terminations for futility or for overwhelming efficacy, the timing, which can be based on accrual of events, enrollment or other factors, and the results of such analyses, is unpredictable.

GALACTIC-HF was conducted under an SPA agreement with FDA. However, even where the FDA agrees to the design, execution and analysis proposed in protocols reviewed under the SPA process, the FDA may revoke or alter its agreement in certain circumstances, and the FDA retains significant latitude and discretion in interpreting the terms of the SPA agreement and the data and results from any study that is subject to the SPA agreement. The existence of an SPA agreement in respect of GALACTIC-HF or any other trial does not guarantee that FDA would approve any resulting NDA in respect of any product that is the subject of any clinical trial subject to an SPA agreement.

Administering any of our drug candidates or potential drug candidates may produce undesirable side effects, also known as adverse events. Toxicities and adverse events observed in preclinical studies for some compounds in a particular research and development program may also occur in preclinical studies or clinical trials of other compounds from the same program. Potential toxicity issues may arise from the effects of the active pharmaceutical ingredient itself or from impurities or degradants that are present in the active pharmaceutical ingredient or could form over time in the formulated drug candidate or the active pharmaceutical ingredient. These toxicities or adverse events could delay or prevent the filing of an IND (or a foreign equivalent) with respect to our drug candidates or potential drug candidates or cause us, our partners or the FDA or foreign regulatory authorities to modify, suspend or terminate clinical trials with respect to any drug candidate at any time during the development program. Further, the administration of two or more drugs contemporaneously can lead to interactions between them, and our drug candidates may interact with other drugs that trial subjects are taking. If the adverse events are severe or frequent enough to outweigh the potential efficacy of a drug candidate, the FDA or other regulatory authorities could deny approval of that drug candidate for any or all targeted indications. Even if one or more of our drug candidates were approved for sale as drugs, the occurrence of even a limited number of adverse events or toxicities when used in large populations may cause the FDA or foreign regulatory authorities to impose restrictions on, or stop, the further marketing of those drugs. Indications of potential adverse events or toxicities which do not seem significant during the course of clinical trials may later turn out to actually constitute serious adverse events or toxicities when a drug is used in large populations or for extended periods of time.

We have observed certain adverse events in the clinical trials conducted with our drug candidates. For example, in clinical trials of omecamtiv mecarbil, adverse events of chest discomfort, palpitations, dizziness and feeling hot, increases in heart rate, declines in blood pressure, electrocardiographic changes consistent with acute myocardial ischemia and transient rises in the MB fraction of creatine kinase and cardiac troponins I and T, which are indicative of myocardial infarction were observed during treatment with omecamtiv mecarbil.

In addition, clinical trials of reldesemtiv and omecamtiv mecarbil enroll patients who typically suffer from serious diseases which put them at increased risk of death. These patients may die while receiving our drug candidates. In such circumstances, it may not be possible to exclude with certainty a causal relationship to our drug candidate, even though the responsible clinical investigator may view such an event as not study drug-related.

Any failure or significant delay in completing preclinical studies or clinical trials for our drug candidates, or in receiving and maintaining regulatory approval for the sale of any resulting drugs, may significantly harm our business and negatively affect our stock price.

The failure of a number of Phase 3 clinical trials evaluating other compounds as potential treatments for patients with ALS may suggest an increased risk that our clinical development program of reldesemtiv in patients with ALS will also fail.

In recent years, a number of Phase 3 clinical trials of potential treatments for ALS have failed to demonstrate the requisite efficacy for regulatory approval or for their continued development. These include our trial of tirasemtiv known as VITALITY-ALS, Biogen's trial of dexpramipexole, known as EMPOWER, the National Institute of Neurological Disorders and Stroke's trial of ceftriaxone, and Trophos SA's trial of olesoxime. Reldesemtiv, like these compounds, may fail in clinical development if it does not show a statistically significant level of clinical efficacy or if the adverse event profile is too great compared to its benefits. Further, even if we believe the data collected from the planned clinical development program of reldesemtiv are promising and should support approval, the FDA or other regulatory authorities may not deem these data to be sufficient to support approval.

Notwithstanding GALACTIC-HF having met its primary efficacy endpoint and the FDA has accepted our NDA for filing, there is no guarantee that the FDA or any other regulatory authority will approve omecamtiv mecarbil.

In November 2020, we announced the primary results from GALACTIC-HF, the Phase 3 trial of omecamtiv mecarbil. The results of GALACTIC-HF show that after a median duration of follow-up of 21.8 months, the trial demonstrated a statistically significant effect of treatment with omecamtiv mecarbil to reduce risk of the primary composite endpoint of CV death or heart failure events (heart failure hospitalization and other urgent treatment for heart failure) compared to placebo in patients treated with standard of care (HR: 0.92; 95% CI: 0.86, 0.99, p-0.025). The trial results, however, showed that no secondary endpoints were met. In particular, no reduction in the secondary endpoint of time to CV death was observed, and the KCCQ total symptom score by randomization setting did not meet the significance threshold of P=0.002 based upon the multiplicity control testing procedure. No assurances can be given that the primary endpoint results of GALACTIC-HF alone will be deemed sufficiently safe or efficacious to warrant approval by the FDA or any other regulatory authority.

In December 2020, we announced that supplemental analyses of this lower ejection fraction subgroup in GALACTIC-HF showed that this potentially greater treatment effect in patients who received omecamtiv mecarbil was consistently observed in patients with characteristics that may indicate advanced heart failure status, such as being hospitalized within the last 3 months (HR 0.83, 95% CI 0.74 – 0.93, p=0.001), having New York Association Class III or IV heart failure (HR 0.80, 95% CI 0.71 – 0.90, p<0.001), higher N-terminal-pro brain natriuretic peptide levels (HR 0.77, 95% CI 0.69 – 0.87, p<0.001), and lower blood pressures (HR 0.81, 95% CI 0.70 – 0.92, p=0.002). The absolute risk reductions (ARR) ranged from 5.2% to 8.1% in these subgroups as compared to the ARR of 2.1% observed in the overall population. Although the supplemental analyses showed that omecamtiv mecarbil potentially has a greater treatment effect in these subgroups of trial patients, no assurance can be given that the FDA or any other regulatory authority will consider any such subgroup analysis as the basis for an approval of omecamtiv mecarbil without requiring additional clinical trials.

In May 2021, we announced data from a secondary analysis of GALACTIC-HF assessing the effect of omecamtiv mecarbil on clinical outcomes in relationship to patient baseline ejection fraction. Analysis of ejection fraction as a continuous variable demonstrated a progressively larger treatment effect of omecamtiv mecarbil with decreasing ejection fraction.

In June 2021, we announced additional analyses from GALACTIC-HF demonstrating patients with atrial fibrillation or flutter have increased treatment effect with omecamtiv mecarbil; patients with higher baseline NT-proBNP have increased treatment effect with omecamtiv mecarbil; and patients with severe heart failure have increased treatment effect with omecamtiv mecarbil.

In September 2021, we announced that additional results from GALACTIC-HF assessing the effect of omecamtiv mecarbil in Black patients with HFrEF. Among Black patients, treatment with omecamtiv mecarbil resulted in a trend towards reduction in the primary endpoint by 18% (HR=0.82, 95% CI 0.64-1.04), corresponding to a reduction in the primary event rate of 7.7/100 patient-years with a number-needed-to-treat of 13 patients.

In February 2022, we announced that the FDA had accepted our NDA for omecamtiv mecarbil for the treatment of HFrEF for filing and assigned a PDUFA target action date of November 30, 2022.

Although our supplemental analyses showed that omecamtiv mecarbil potentially has a greater treatment effect in certain subgroups of trial patients and the FDA has accepted our NDA for filing, no assurance can be given that the FDA or any other regulatory authority will consider any such subgroup analysis as the basis for an approval of omecamtiv mecarbil without requiring additional clinical trials or that FDA will ultimately approve omecamtiv mecarbil for the treatment of HFrEF based on our NDA as filed by the FDA, whether by the PDUFA target action date of November 30, 2022 or subsequently.

Clinical trials are expensive, time-consuming and subject to delay.

Clinical trials are subject to rigorous regulatory requirements and are very expensive, difficult and time-consuming to design and implement. The length of time and number of trial sites and patients required for clinical trials vary substantially based on the type, complexity, novelty, intended use of the drug candidate and safety concerns. Clinical trials of our current drug candidates can each continue for several more years. However, the clinical trials for all or any of our drug candidates may take significantly longer to complete. The commencement and completion of our or our partners' clinical trials could be delayed or prevented by many factors, including, but not limited to:

- delays in obtaining, or inability to obtain, regulatory or other approvals to commence and conduct clinical trials in the manner we or our partners deem necessary for the appropriate and timely development of our drug candidates and commercialization of any resulting drugs;
- delays in identifying and reaching agreement, or inability to identify and reach agreement, on acceptable terms, with prospective clinical trial sites and other entities involved in the conduct of our or our partners' clinical trials;
- delays or additional costs in developing, or inability to develop, appropriate formulations of our drug candidates for clinical trial use;
- slower than expected rates of patient recruitment and enrollment;
- for those drug candidates that are the subject of a strategic alliance, delays in reaching agreement with our partner as to appropriate development strategies;
- a regulatory authority may require changes to a protocol for a clinical trial that then may require approval from regulatory agencies in other jurisdictions where the trial is being conducted;
- a regulatory authority in one jurisdiction may not accept a clinical trial design that is acceptable in another jurisdiction;
- an institutional review board ("IRB") or its foreign equivalent may require changes to a protocol that then require approval from regulatory agencies and other IRBs and their foreign equivalents, or regulatory authorities may require changes to a protocol that then require approval from the IRBs or their foreign equivalents;
- for clinical trials conducted in foreign countries, the time and resources required to identify, interpret and comply with foreign regulatory requirements or changes in those requirements, and political instability or natural disasters occurring in those countries;
- lack of effectiveness of our drug candidates during clinical trials;
- unforeseen safety issues;
- inadequate supply, or delays in the manufacture or supply, of clinical trial materials;
- uncertain dosing issues;
- failure by us, our partners, or clinical research organizations, investigators or site personnel engaged by us or our partners to comply with good clinical practices and other applicable laws and regulations, including those concerning informed consent;
- inability or unwillingness of investigators or their staffs to follow clinical protocols;
- failure by our clinical research organizations, clinical manufacturing organizations and other third parties supporting our or our partners' clinical trials to fulfill their obligations;
- inability to monitor patients adequately during or after treatment;

- introduction of new therapies or changes in standards of practice or regulatory guidance that render our drug candidates or their clinical trial endpoints obsolete; and
- results from non-clinical studies that may adversely impact the timing or further development of our drug candidates.

We do not know whether planned clinical trials will begin on time, or whether planned or currently ongoing clinical trials will need to be restructured or will be completed on schedule, if at all. Significant delays in clinical trials will impede our ability to commercialize our drug candidates and generate revenue and could significantly increase our development costs.

If we encounter difficulties enrolling patients in our clinical trials, including COURAGE-ALS and SEQUOIA-HCM, our clinical development activities could be delayed or otherwise adversely affected.

The timely completion of clinical trials in accordance with their protocols depends, among other things, on our ability to enroll a sufficient number of patients who remain in the trial until its conclusion. We may experience difficulties in patient enrollment in clinical trials for a variety of reasons. The enrollment of patients depends on many factors, including:

- the patient eligibility criteria defined in the protocol;
- the size of the patient population required for analysis of the trial's primary endpoints;
- the proximity of patients to study sites;
- the design of the trial;
- the ability to recruit clinical trial investigators with the appropriate competencies and experience;
- clinicians' and patients' perceptions as to the potential advantages of the product candidate being studied in relation to other available therapies or clinical trials, including any new drugs that may be approved for the indications we are investigating or clinical trial results;
- the ability to obtain and maintain patient consents;
- the risk that patients enrolled in clinical trials will drop out of the trials before completion;
- the effects of the COVID-19 pandemic, including governmental responses and restrictions on movement and the ability of patients to visit clinical trial sites and practicability and/or availability of virtual and/or home healthcare visits.

In addition, our and our partners' clinical trials will compete with other clinical trials for product candidates that are in the same therapeutic areas as our and our partners' product candidates, and this competition will reduce the number and types of patients available to us, because some patients who might have opted to enroll in our or our partners' trials may instead opt to enroll in a trial being conducted by one of our competitors. Since the number of qualified clinical investigators is limited, we expect to conduct some of our or our partners' clinical trials at the same clinical trial sites that some of our competitors use, which will reduce the number of patients who are available for our clinical trials in such clinical trial site.

Delays in patient enrollment may result in increased costs or may affect the timing or outcome of the planned clinical trials, which could prevent completion of these trials and adversely affect our and our partners' ability to advance the development of product candidates.

The transition of responsibilities for manufacturing, development, regulatory, commercial planning and other activities related to omecamtiv mecarbil and CK-136 (formerly known as AMG 594) from Amgen to us may not be completed effectively or efficiently and could result in substantial delays to these programs and significant increased costs to us.

On November 23, 2020, we announced that Amgen elected to terminate the Amgen Agreement and thereby end its collaboration with Cytokinetics, and that it intended to transition development and commercialization rights for omecamtiv mecarbil and CK-136 to us. The termination of the Amgen Agreement was effective May 20, 2021. Pursuant to the terms of the Amgen Agreement, upon the effective date of Amgen's termination, research, development and commercialization rights for compounds, including omecamtiv mecarbil and CK-136, have reverted to us. Under the Amgen Agreement, Amgen has certain obligations that survive its termination, including: cooperating with us and our designee(s) to facilitate a reasonably smooth, orderly and prompt transition of the programs, including transfer and assignment to us of specified regulatory filings, data and other information; if requested by us, transferring inventory of compounds to us at our expense; to the extent possible and requested by us, assigning relevant third-party manufacturing agreements to us; and granting to us exclusive and non-exclusive licenses to certain intellectual property rights. In addition, we and Amgen have entered into several agreements to facilitate the transition of the programs for omecamtiv mecarbil and CK-136 to us, including an agreement for the sale and purchase of approximately 2.0 tons of materials including active pharmaceutical ingredient of omecamtiv mecarbil to enable our launch supply of drug product.

No assurance can be made that Amgen will continue to cooperate with us and take such actions required of Amgen under the Amgen Agreement or our other agreements with Amgen to transition the programs for omecamtiv mecarbil and/or CK-136 to us effectively or efficiently. Amgen may not dedicate sufficient resources to enable a prompt and efficient transition; it could reallocate and not make available to us key personnel who are aware of vital program information; it could provide information and take actions in a uncoordinated and inefficient manner that is difficult for our personnel to receive, understand and/or utilize; it could fail to identify program information that we are unaware of and thereby deny us the benefits of such information; it could immediately halt its regulatory interactions and other development activities and/or obstruct us from undertaking such regulatory interactions and other development activities prior to the effective date of termination of the Amgen Agreement; and it could take a narrow interpretation of its transition obligations under the Amgen Agreement and thereby denying us the ability to continue the development activities of omecamtiv mecarbil or CK-136 without duplicative work, all of which could result in substantial delays in the development and/or commercialization programs related to omecamtiv mecarbil and/or CK-136.

No assurance can be made that Amgen will not develop products, or enable its partners to develop products, that compete with omecamtiv mecarbil and/or CK-136 or use the information and experience gained in developing omecamtiv mecarbil and/or CK-136 to its or its partners' competitive advantage, thereby substantially diminishing the commercial prospects for omecamtiv mecarbil and/or CK-136.

Finally, no assurance can be made that we will have or be able to mobilize the capital, personnel, systems or other recourses required by the effective termination of the Amgen Agreement to ensure our ability to meet our legal or regulatory responsibilities and obligations, to continue the development of the omecamtiv mecarbil and/or CK-136 programs, including the design and conduct of clinical trials of omecamtiv mecarbil and/or CK-136, without substantial delays to the timelines previously anticipated prior to Amgen's decision to terminate the Amgen Agreement or without significant costs as compared to our anticipated costs prior to Amgen's decision to terminate the Amgen Agreement, or to ensure commercial preparedness for a potential product launch of omecamtiv mecarbil. In such cases, we would have to seek a new partner for development or commercialization, curtail or abandon that development or commercialization, or undertake and fund the development of omecamtiv mecarbil or CK-136 or commercialization of the resulting drugs ourselves. If we seek a new partner but are unable to do so on acceptable terms, or at all, or do not have sufficient funds to conduct the development or commercialization of omecamtiv mecarbil ourselves, we would have to curtail or abandon that development or commercialization of omecamtiv mecarbil and/or CK-136, which could harm our business.

The failure to successfully develop, validate and obtain regulatory clearance or approval of a dosage selection test for an assay for plasma concentrations of omecamtiv mecarbil could delay or harm our development and commercialization strategy for omecamtiv mecarbil.

An important element of our development and commercialization strategy for omecamtiv mecarbil has been the development of an assay used for the in vitro measurement of concentrations of omecamtiv mecarbil in human blood, which is intended to enable personalized dose optimization of omecamtiv mecarbil. In COSMIC-HF, a liquid chromatography-tandem mass spectrometry assay was used for such measurements. Thereafter, an antibody-based immunoassay, Microgenics OM Assay, was developed under the Assay Agreement between Amgen and Microgenics Corporation and was utilized in both GALACTIC-HF and METEORIC-HF. We have been informed by Amgen that the Assay Agreement terminated contemporaneously with the termination of the Amgen Agreement. Consequently, we are pursuing the development and/or usage of alternative dosage selection tests to the Microgenics OM Assay to be used for personalized dose optimization of omecamtiv mecarbil and, if required by FDA or other regulatory authorities, in order to obtain marketing approval of omecamtiv mecarbil. In the event we do not develop an assay acceptable to the FDA or other regulatory authorities and any such authorities require a dosage selection test as a condition to regulatory approval of omecamtiv mecarbil, our ability to obtain or receive marketing approval for omecamtiv mecarbil may be significantly delayed or may not be obtainable at all. Moreover, the development of a dosage selection test alternative to the Microgenics OM Assay may be complex from an operational and regulatory perspective, particularly in the event a dosage selection test is deemed a companion diagnostic, a Class III device, requiring the most stringent device application process. If deemed by FDA to be a Class III device, the approval of the dosage selection test will require a pre-market application approval to establish the safety and efficacy of the dosage selection test. If there is a need for both omecamtiv mecarbil and the dosage selection test to receive regulatory clearance or approval, such approval may not be obtainable in all territories where omecamtiv mecarbil could ultimately be commercialized. In the US specifically, CDER (Center for Drug Evaluation and Research) could require an FDA cleared or approved assay for the approval of omecamtiv mecarbil such that their approval may be conditioned on the approval or clearance of our proposed dosage selection test by CDRH (Center for Devices and Radiologic Health).

We will depend on Ji Xing for the development and commercialization of aficamten and omecamtiv mecarbil in China and Taiwan.

Under the terms of the Ji Xing Aficamten License Agreement and the Ji Xing OM License Agreement (together, the "Ji Xing Agreements"), Ji Xing will be responsible for the development and commercialization of aficamten and omecamtiv mecarbil in China and Taiwan. The timing and amount of any milestone and royalty payments we may receive under the Ji Xing Agreements will depend in part on the efforts and successful commercialization of aficamten and omecamtiv mecarbil by Ji Xing. We do not control the individual efforts of Ji Xing, and any failure by Ji Xing to devote sufficient time and effort to the development and commercialization of aficamten or omecamtiv mecarbil or to meet its obligations to us, including for future milestone and royalty payments; or to adequately deploy business continuity plans in the event of a crisis, or to satisfactorily resolve significant disagreements with us could each have an adverse impact on our financial results and operations. We will also depend on Ji Xing to comply with all applicable laws relative to the development and commercialization of aficamten and omecamtiv mecarbil in China and Taiwan. If Ji Xing were to violate, or was alleged to have violated, any laws or regulations during the performance of its obligations for us, it is possible that we could suffer financial and reputational harm or other negative outcomes, including possible legal consequences.

Any termination, breach or expiration of the Ji Xing Agreements could have a material adverse effect on our financial position by reducing or eliminating the potential for us to receive milestones and royalties. In such an event, we may be required to devote additional efforts and to incur additional costs associated with pursuing the development and commercialization of aficamten and omecamtiv mecarbil in China and Taiwan. Alternatively, we may attempt to identify and transact with a new sub-licensee, but there can be no assurance that we would be able to identify a suitable sub-licensee or transact on terms that are favorable to us.

If we do not enter into strategic alliances for our unpartnered drug candidates or research and development programs or fail to successfully maintain our current or future strategic alliances, we may have to reduce, delay or discontinue our advancement of our drug candidates and programs or expand our research and development capabilities and increase our expenditures.

Drug development is complicated and expensive. We currently have limited financial and operational resources to carry out drug development. Our strategy for developing, manufacturing and commercializing our drug candidates currently requires us to enter into and successfully maintain strategic alliances with pharmaceutical companies or other industry participants to advance our programs and reduce our expenditures on each program. Accordingly, the success of our development activities depends in large part on our current and future strategic partners' performance, over which we have little or no control.

Our ability to commercialize drugs that we develop with our partners and that generate royalties from product sales depends on our partners' abilities to assist us in establishing the safety and efficacy of our drug candidates, obtaining and maintaining regulatory approvals and achieving market acceptance of the drugs once commercialized. Our partners may elect to delay or terminate development of one or more drug candidates, independently develop drugs that could compete with ours or fail to commit sufficient resources to the marketing and distribution of drugs developed through their strategic alliances with us. Our partners may not proceed with the development and commercialization of our drug candidates with the same degree of urgency as we would because of other priorities they face. In addition, new business combinations or changes in a partner's business strategy may adversely affect its willingness or ability to carry out its obligations under a strategic alliance.

If we are not able to successfully maintain our existing strategic alliances or establish and successfully maintain additional strategic alliances, we will have to limit the size or scope of, or delay or discontinue, one or more of our drug development programs or research programs, or undertake and fund these programs ourselves. Alternatively, if we elect to continue to conduct any of these drug development programs or research programs on our own, we will need to expand our capability to conduct clinical development by bringing additional skills, technical expertise and resources into our organization. This would require significant additional funding, which may not be available to us on acceptable terms, or at all.

To the extent we elect to fund the development of a drug candidate, or the commercialization of a drug at our expense, we will need substantial additional funding.

The discovery, development and commercialization of new drugs is costly. As a result, to the extent we elect to fund the development of a drug candidate or the commercialization of a drug, we will need to raise additional capital to:

- fund clinical trials and seek regulatory approvals;
- expand our development capabilities;
- engage third-party manufacturers for such drug candidate or drug;
- build or access commercialization capabilities;
- significantly scale up the number of commercial employees;

- implement additional internal systems and infrastructure;
- maintain, defend and expand the scope of our intellectual property; and
- hire and support additional management and scientific personnel.

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

- the rate of progress and costs of our or our partners' clinical trials and other research and development activities;
- the costs and timing of seeking and obtaining regulatory approvals;
- the costs associated with establishing manufacturing and commercialization capabilities;
- the costs of filing, prosecuting, defending and enforcing any patent claims and other intellectual property rights;
- the costs of acquiring or investing in businesses, products and technologies;
- the effect of competing technological and market developments; and
- the status of, payment and other terms, and timing of any strategic alliance, licensing or other arrangements that we have entered into or may establish.

Until we can generate a sufficient amount of product revenue to finance our cash requirements, which we may never do, we expect to continue to finance our future cash needs primarily through strategic alliances and other financings. We cannot be certain that additional funding will be available on acceptable terms, or at all. If we are not able to secure additional funding when needed, we may have to delay, reduce the scope of or eliminate one or more of our clinical trials or research and development programs or future commercialization initiatives.

We depend on CROs to conduct our clinical trials and have limited control over their performance. If these CROs do not successfully carry out their contractual duties or meet expected deadlines, or if we lose any of our CROs, we may not be able to obtain regulatory approval for or commercialize our product candidates on a timely basis, if at all.

We have used and intend to continue to use a limited number of CROs within and outside of the United States to conduct clinical trials of our drug candidates and related activities. We do not have control over many aspects of our CROs' activities, and cannot fully control the amount, timing or quality of resources that they devote to our programs. CROs may not assign as high a priority to our programs or pursue them as diligently as we would if we were undertaking these programs ourselves. The activities conducted by our CROs therefore may not be completed on schedule or in a satisfactory manner. CROs may also give higher priority to relationships with our competitors and potential competitors than to their relationships with us. Outside of the United States, we are particularly dependent on our CROs' expertise in communicating with clinical trial sites and regulatory authorities and ensuring that our clinical trials and related activities and regulatory filings comply with applicable laws.

Our CROs' failure to carry out development activities on our behalf as agreed and in accordance with our and the FDA's or other regulatory agencies' requirements and applicable U.S. and foreign laws, or our failure to properly coordinate and manage these activities, could increase the cost of our operations and delay or prevent the development, approval and commercialization of our drug candidates. For example, in June 2013, we learned from our data management vendor for our Phase 2b clinical trial of tirasemtiv in patients with ALS, BENEFIT-ALS, that a programming error in the electronic data capture system controlling study drug assignment caused 58 patients initially randomized to and treated with tirasemtiv to receive placebo instead at a certain trial visit and for the remainder of the trial. In order to maintain the originally intended statistical power of the trial, we amended the protocol to permit enrollment of approximately 680 patients, or 180 patients in addition to the 500 patients allowed under the existing protocol. This protocol amendment resulted in additional costs and delays in conducting BENEFIT-ALS. Further, for the quarter ended September 30, 2016, we determined that there was an error in the accounting for the recognition of clinical research and development expenses related to the information received from one of our CROs, which resulted in a restatement of our clinical research and development expenses, related clinical accrual accounts and related financial disclosures as of and for the three and nine month periods ended September 30, 2016. In addition, if a CRO fails to perform as agreed, our ability to collect damages may be contractually limited. If we fail to effectively manage the CROs carrying out the development of our drug candidates or if our CROs fail to perform as agreed, the commercialization of our drug candidates will be delayed or prevented. In many cases, our CROs have the right to terminate their agreements with us in the event of an uncured material breach. Identifying, qualifying and managing performance of third-party service providers can be difficult, time consuming and cause delays in our development programs. In addition, there is a natural transition period when a new CRO commences work and the new CRO may not provide the same type or level of services as the original provider. If any of our relationships with our third-party CROs terminate, we may not be able to enter into arrangements with alternative CROs or to do so timely or on commercially reasonable terms.

We have no manufacturing capacity and depend on contract manufacturers to produce our clinical trial materials, including our drug candidates, and anticipate continued reliance on contract manufacturers for the development and commercialization of our potential drugs.

We do not currently operate manufacturing facilities for clinical or commercial production of our drug candidates. We have limited experience in drug formulation and manufacturing, and we lack the resources and the capabilities to manufacture any of our drug candidates on a clinical or commercial scale.

Amgen had assumed responsibility to conduct these activities for the ongoing development of omecamtiv mecarbil worldwide. Now that Amgen has elected to terminate the Amgen Agreement, we have engaged with Amgen's existing contract manufacturers for the manufacture and packaging of omecamtiv mecarbil to enter into supply agreements. In January 2022, we entered into a long-term commercial supply agreement for the supply of finished drug product for omecamtiv mecarbil, and we continue to work towards securing a long-term commercial supply agreement for the supply of active pharmaceutical ingredient for omecamtiv mecarbil with Amgen's previous supplier. Should we fail to reach an agreement therewith on acceptable terms therewith, we may need to transfer the manufacturing of active pharmaceutical ingredient for omecamtiv mecarbil to a new contract manufacturer and incur delays and incur additional costs in doing so.

Under the Ji Xing Agreements, we have committed to providing Ji Xing with supply of aficamten and omecamtiv mecarbil for development and commercialization of aficamten and omecamtiv mecarbil in China and Taiwan, which we will have to source from our contract manufacturers. We expect to rely on contract manufacturers to supply all future drug candidates for which we conduct development, as well as other materials required to conduct our clinical trials, and to fulfil our obligations under the Ji Xing Agreements.

If any of our existing or future contract manufacturers fail to perform satisfactorily, it could delay development or regulatory approval of our drug candidates or commercialization of our drugs, producing additional losses and depriving us of potential product revenues, and also lead to our breach of one or both of the Ji Xing Agreements, giving rise to the ability to terminate such agreements and other adverse consequences as stipulated in the Ji Xing Agreements. In addition, if a contract manufacturer fails to perform as agreed, our ability to collect damages may be contractually limited.

Our drug candidates require precise high-quality manufacturing. The failure to achieve and maintain high manufacturing standards, including failure to detect or control anticipated or unanticipated manufacturing errors or the frequent occurrence of such errors, could result in patient injury or death, discontinuance or delay of ongoing or planned clinical trials, delays or failures in product testing or delivery, cost overruns, product recalls or withdrawals and other problems that could seriously hurt our business. Contract drug manufacturers often encounter difficulties involving production yields, quality control and quality assurance and shortages of qualified personnel. These manufacturers are subject to stringent regulatory requirements, including the FDA's current good manufacturing practices regulations and similar foreign laws and standards. Each contract manufacturer must pass a pre-approval inspection before we can obtain marketing approval for any of our drug candidates and following approval will be subject to ongoing periodic unannounced inspections by the FDA, the U.S. Drug Enforcement Agency and other regulatory agencies, to ensure strict compliance with current good manufacturing practices and other applicable government regulations and corresponding foreign laws and standards. We seek to ensure that our contract manufacturers comply fully with all applicable regulations, laws and standards. However, we do not have control over our contract manufacturers' compliance with these regulations, laws and standards. If one of our contract manufacturers fails to pass its pre-approval inspection or maintain ongoing compliance at any time, the production of our drug candidates could be interrupted, resulting in delays or discontinuance of our clinical trials, additional costs and potentially lost revenues. In addition, failure of any third-party manufacturers or us to comply with applicable regulations, including pre- or post-approval inspections and the current good manufacturing practice requirements of the FDA or other comparable regulatory agencies, could result in sanctions being imposed on us. These sanctions could include fines, injunctions, civil penalties, failure of regulatory authorities to grant marketing approval of our products, delay, suspension or withdrawal of approvals, license revocation, product seizures or recalls, operational restrictions and criminal prosecutions, any of which could significantly and adversely affect our business.

In addition, our existing and future contract manufacturers may not perform as agreed or may not remain in the contract manufacturing business for the time required to successfully produce, store and distribute our drug candidates. If a natural disaster, business failure, strike or other difficulty occurs, we may be unable to replace these contract manufacturers in a timely or cost-effective manner and the production of our drug candidates would be interrupted, resulting in delays, loss of customers and additional costs.

Switching manufacturers or manufacturing sites would be difficult and time-consuming because the number of potential manufacturers is limited. In addition, before a drug from any replacement manufacturer or manufacturing site can be commercialized, the FDA and, in some cases, foreign regulatory agencies, must approve that site. These approvals would require regulatory testing and compliance inspections. A new manufacturer or manufacturing site also would have to be educated in, or develop substantially equivalent processes for, production of our drugs and drug candidates. It may be difficult or impossible to transfer certain elements of a manufacturing process to a new manufacturer or for us to find a replacement manufacturer on acceptable terms quickly, or at all, either of which would delay or prevent our ability to develop drug candidates and commercialize any resulting drugs.

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

To date, our drug candidates have been manufactured in quantities adequate for preclinical studies and early through late-stage clinical trials. In order to conduct large scale clinical trials for a drug candidate and for commercialization of the resulting drug if that drug candidate is approved for sale, we will need to manufacture some drug candidates in larger quantities. We may not be able to successfully repeat or increase the manufacturing capacity for any of our drug candidates, whether in collaboration with third-party manufacturers or on our own, in a timely or cost-effective manner or at all. If a contract manufacturer makes improvements in the manufacturing process for our drug candidates, we may not own, or may have to share, the intellectual property rights to those improvements. Significant changes or scale-up of manufacturing may require additional validation studies, which are costly and which regulatory authorities must review and approve. In addition, quality issues may arise during those changes or scale-up activities because of the inherent properties of a drug candidate itself or of a drug candidate in combination with other components added during the manufacturing and packaging process, or during shipping and storage of the finished product or active pharmaceutical ingredients. If we are unable to successfully manufacture of any of our drug candidates in sufficient quality and quantity, the development of that drug candidate and regulatory approval or commercial launch for any resulting drugs may be delayed or there may be a shortage in supply, which could significantly harm our business. In addition, data demonstrating the stability of both drug substance and drug product, using the commercial manufacturing process and at commercial scale, are required for marketing applications. Failure to produce drug substance and drug products in a timely manner and obtain stability data could result in delay of submission of marketing applications.

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

We have discovered and develop drug candidates that have what we believe are novel mechanisms of action directed against cytoskeletal targets. Because no currently-approved drugs appear to operate via the same biochemical mechanisms as our compounds, we cannot be certain that our drug candidates will result in commercially viable drugs that safely and effectively treat the indications for which we intend to develop them. The results we have seen for our compounds in preclinical models may not translate into similar results in humans, and results of early clinical trials in humans may not be predictive of the results of larger clinical trials that may later be conducted with our drug candidates. Even if we are successful in developing and receiving regulatory approval for a drug candidate for the treatment of a particular disease, we cannot be certain that it will be accepted by prescribers or be reimbursed by insurers or that we will also be able to develop and receive regulatory approval for that or other drug candidates for the treatment of other diseases. If we or our partners are unable to successfully develop and commercialize our drug candidates, our business will be materially harmed.

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

Our success depends substantially upon our ability to obtain and maintain intellectual property protection relating to our drug candidates, compounds and research technologies.

We own, co-own or hold exclusive licenses to a number of U.S. and foreign patents and patent applications directed to our drug candidates, compounds and research technologies. Our success depends on our ability to obtain patent protection both in the United States and in other countries for our drug candidates, their methods of manufacture and use, and our technologies. Our ability to protect our drug candidates, compounds and technologies from unauthorized or infringing use by third parties depends substantially on our ability to obtain and enforce our patents. If our issued patents and patent applications, if granted, do not adequately describe, enable or otherwise provide coverage of our technologies and drug candidates, we, our licensors or our licensees would not be able to exclude others from developing or commercializing these drug candidates. Furthermore, the degree of future protection of our proprietary rights is uncertain because legal means may not adequately protect our rights or permit us to gain or keep our competitive advantage. If we are unable to obtain and maintain sufficient intellectual property protection for our technologies and drug candidates, or if the scope of the intellectual property protection obtained is not sufficiently broad, our competitors could develop and commercialize drug candidates similar or identical to ours, and our ability to successfully commercialize product candidates that we may pursue may be impaired.

Obtaining and enforcing biopharmaceutical patents is costly, time consuming and complex, and we may not be able to file and prosecute all necessary or desirable patent applications, or maintain, enforce and license any patents that may issue from such patent applications, at a reasonable cost or in a timely manner. It is also possible that we will fail to identify patentable aspects of our research and development output before it is too late to obtain patent protection. We may not have the right to control the preparation, filing and prosecution of patent applications, or to maintain the rights to patents licensed to third parties. Therefore, these patents and applications may not be prosecuted and enforced in a manner consistent with the best interests of our business.

Due to evolving legal standards relating to the patentability, validity and enforceability of patents covering pharmaceutical inventions and the claim scope of these patents, our ability to enforce our existing patents and to obtain and enforce patents that may issue from any pending or future patent applications is uncertain and involves complex legal, scientific and factual questions. The standards which the U.S. Patent and Trademark Office and its foreign counterparts use to grant patents are not always applied predictably or uniformly and are subject to change. To date, no consistent policy has emerged regarding the breadth of claims allowed in biotechnology and pharmaceutical patents. Thus, we cannot be sure that any patents will issue from any pending or future patent applications owned by, co-owned by or licensed to us. Even if patents do issue, we cannot be sure that the claims of these patents will be held valid or enforceable by a court of law, will provide us with any significant protection against competitive products, or will afford us a commercial advantage over competitive products. In particular:

- we or our licensors might not have been the first to make the inventions covered by each of our pending patent applications or issued patents;
- we or our licensors might not have been the first to file patent applications for the inventions covered by our pending patent applications or issued patents;
- others may independently develop similar or alternative technologies or duplicate any of our technologies without infringing our intellectual property rights;
- some or all of our or our licensors' pending patent applications may not result in issued patents or the claims that issue may be narrow in scope and not provide us with competitive advantages;
- our and our licensors' issued patents may not provide a basis for commercially viable drugs or therapies or may be challenged and invalidated by third parties;
- our or our licensors' patent applications or patents may be subject to interference, post-grant proceedings, derivation, reexamination, inter partes review, opposition or similar legal and administrative proceedings that may result in a reduction in their scope or their loss altogether;
- we may not develop additional proprietary technologies or drug candidates that are patentable; or
- the patents of others may prevent us or our partners from discovering, developing or commercializing our drug candidates.

We may not be able to protect our intellectual property rights throughout the world. Patent protection is afforded on a country-by-country basis. Filing, prosecuting and defending patents on our product candidates in all countries throughout the world would be prohibitively expensive, and our intellectual property rights in some countries outside the United States can be less extensive than those in the United States. Many companies have encountered significant difficulties in protecting and defending intellectual property rights in foreign jurisdictions. Some of our development efforts are performed in countries outside of the United States through third-party contractors. We may not be able to effectively monitor and assess intellectual property developed by these contractors. We therefore may not be able to effectively protect this intellectual property and could lose potentially valuable intellectual property rights. In addition, the legal protection afforded to inventors and owners of intellectual property in countries outside of the United States may not be as protective of intellectual property rights as in the United States. Therefore, we may be unable to acquire and protect intellectual property developed by these contractors to the same extent as if these development activities were being conducted in the United States. If we encounter difficulties in protecting our intellectual property rights in foreign jurisdictions, our business prospects could be substantially harmed.

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

Obtaining and maintaining our patent protection depends on compliance with various procedural, document submission, fee payment and other requirements imposed by governmental patent agencies, and our patent protection could be reduced or eliminated for non-compliance with these requirements. Periodic maintenance fees, renewal fees, annuity fees and various other governmental fees on patents and/or applications will be due to be paid to the USPTO and various governmental patent agencies outside of the United States in several stages over the lifetime of the patents and/or applications. Non-compliance could result in abandonment or lapse of the patent or patent application, resulting in partial or complete loss of patent rights in the relevant jurisdiction. In such an event, our competitors might be able to enter the market and this circumstance would have a material adverse effect on our business.

We may be subject to claims challenging the inventorship or ownership of our patents and other intellectual property. We rely on intellectual property assignment agreements with our corporate partners, employees, consultants, scientific advisors and other collaborators to grant us ownership of new intellectual property that is developed. These agreements may not result in the effective assignment to us of that intellectual property. As a result, our ownership of key intellectual property could be compromised.

We or our licensors may be subject to claims that former employees, collaborators, consultants or other third parties have an interest in our owned, co-owned or in-licensed patents, trade secrets, or other intellectual property as an inventor or co-inventor. For example, we or our licensors may have inventorship disputes arise from conflicting obligations of employees, collaborators, consultants or others who are involved in developing our product candidates. Litigation may be necessary to defend against these and other claims challenging inventorship of our or our licensors' ownership of our owned, co-owned or in-licensed patents, trade secrets or other intellectual property. If we or our licensors fail in defending any such claims, in addition to paying monetary damages, we may lose valuable intellectual property rights, such as exclusive ownership of, or right to use, intellectual property that is important to our product candidates. Even if we are successful in defending against such claims, litigation could result in substantial costs and be a distraction to management and other employees. Any of the foregoing could have a material adverse effect on our business, financial condition, results of operations and prospects.

We are a party to license agreements and may need to obtain additional licenses from others to advance our research and development activities or allow the commercialization of our drug candidates and future drug candidates we may identify and pursue. If we fail to comply with our obligations in the agreements under which we license intellectual property rights from third parties or these agreements are terminated or we otherwise experience disruptions to our business relationships with our licensors, we could lose intellectual property rights that are important to our business. Our licensors might conclude that we have materially breached our obligations under such license agreements and might therefore terminate, or seek to terminate, the license agreements, thereby removing or limiting our ability to develop and commercialize products and technology covered by these license agreements. If our license agreements are terminated, we may be required to cease our development and commercialization of our product candidates. Any of the foregoing could have a material adverse effect on our competitive position, business, financial conditions, results of operations and prospects. Moreover, disputes may arise regarding intellectual property subject to a licensing agreement. The resolution of any contract interpretation disagreement that may arise could narrow what we believe to be the scope of our rights to the relevant intellectual property or technology, or increase what we believe to be our financial or other obligations under the agreement, either of which could have a material adverse effect on our business, financial condition, results of operations and prospects. Moreover, if disputes over intellectual property that we have licensed prevent or impair our ability to maintain our current licensing arrangements on commercially acceptable terms, we may be unable to successfully develop and commercialize the affected product candidates. Any of the foregoing could have a material adverse effect on our competitive position, business, financial conditions, results of operations and prospects.

Changes in either the patent laws or their interpretation in the United States or other countries may diminish the value of our intellectual property or our ability to obtain patents. For example, the America Invents Act of 2011 may affect the scope, strength and enforceability of our patent rights in the United States or the nature of proceedings which may be brought by us related to our patent rights in the United States.

If one or more products resulting from our drug candidates is approved for sale by the FDA and we do not have adequate intellectual property protection for those products, competitors could duplicate them for approval and sale in the United States without repeating the extensive testing required of us or our partners to obtain FDA approval. Regardless of any patent protection, under current law, an application for a generic version of a new chemical entity cannot be approved until at least five years after the FDA has approved the original product. When that period expires, or if that period is altered, the FDA could approve a generic version of our product regardless of our patent protection. An applicant for a generic version of our product may only be required to conduct a relatively inexpensive study to show that its product is bioequivalent to our product, and may not have to repeat the lengthy and expensive clinical trials that we or our partners conducted to demonstrate that the product is safe and effective. In the absence of adequate patent protection for our products in other countries, competitors may similarly be able to obtain regulatory approval in those countries of generic versions of our products.

If we are unable to protect the confidentiality of our trade secrets, the value of our technology could be materially adversely affected and our business would be harmed.

We also rely on trade secrets to protect our technology, particularly where we believe patent protection is not appropriate or obtainable. However, trade secrets are often difficult to protect, especially outside of the United States. While we endeavor to use reasonable efforts to protect our trade secrets, our or our partners' employees, consultants, contractors or scientific and other advisors may unintentionally or willfully disclose our information to competitors. In addition, confidentiality agreements, if any, executed by those individuals may not be enforceable or provide meaningful protection for our trade secrets or other proprietary information in the event of unauthorized use or disclosure. We cannot be certain that such agreements have been entered into with all relevant parties, and we cannot be certain that our trade secrets and other confidential proprietary information will not be disclosed or that competitors will not otherwise gain access to our trade secrets or independently develop substantially equivalent information and techniques. Pursuing a claim that a third party had illegally obtained and was using our trade secrets would be expensive and time-consuming, and the outcome would be unpredictable. Even if we are able to maintain our trade secrets as confidential, if our competitors lawfully obtain or independently develop information equivalent or similar to our trade secrets, our business could be harmed.

If we are not able to defend the patent or trade secret protection position of our technologies and drug candidates, then we will not be able to exclude competitors from developing or marketing competing drugs, and we may not generate enough revenue from product sales to justify the cost of development of our drugs or to achieve or maintain profitability.

If we are sued for infringing third-party intellectual property rights, it will be costly and time-consuming, and an unfavorable outcome could have a significant adverse effect on our business.

Our ability to commercialize drugs depends on our ability to use, manufacture and sell those drugs without infringing the patents or other proprietary rights of third parties. Numerous U.S. and foreign issued patents and pending patent applications owned by third parties exist in the therapeutic areas in which we are developing drug candidates and seeking new potential drug candidates. In addition, because patent applications can take several years to issue, there may be currently pending applications, unknown to us, which could later result in issued patents that our activities with our drug candidates could infringe. There may also be existing patents, unknown to us, that our activities with our drug candidates could infringe.

Other future products of ours may be impacted by patents of companies engaged in competitive programs with significantly greater resources. Further development of these products could be impacted by these patents and result in significant legal fees.

If a third party claims that our actions infringe its patents or other proprietary rights, we could face a number of issues that could seriously harm our competitive position, including, but not limited to:

- infringement and other intellectual property claims that, even if meritless, can be costly and time-consuming to litigate, delay the regulatory approval process and divert management's attention from our core business operations;
- substantial damages for past infringement which we may have to pay if a court determines that our drugs or technologies infringe a third party's patent or other proprietary rights;
- a court prohibiting us from selling or licensing our drugs or technologies unless the holder licenses the patent or other proprietary rights to us, which it is not required to do; and
- if a license is available from a holder, we may have to pay substantial royalties or grant cross-licenses to our patents or other proprietary rights.

If any of these events occur, it could significantly harm our business and negatively affect our stock price.

We may undertake infringement or other legal proceedings against third parties, causing us to spend substantial resources on litigation and exposing our own intellectual property portfolio to challenge.

Third parties may infringe our patents. To prevent infringement or unauthorized use, we may need to file infringement suits, which are expensive and time-consuming. In an infringement proceeding, a court may decide that one or more of our patents is invalid, unenforceable, or both. In such case third parties may be able to use our technology without paying licensing fees or royalties. Even if the validity of our patents is upheld, a court may refuse to stop the other party from using the technology at issue on the ground that the other party's activities are not covered by our patents. Policing unauthorized use of our intellectual property is difficult, and we may not be able to prevent misappropriation of our proprietary rights, particularly in countries where the laws may not protect such rights as fully as in the United States. In addition, third parties may affirmatively challenge our rights to, or the scope or validity of, our patent rights.

The uncertainties associated with litigation could have a material adverse effect on our ability to raise the funds necessary to conduct clinical trials, continue our research programs, license necessary technology from third parties, or enter into development partnerships that would help us bring our drug candidates or other product candidates that we may identify to market. Furthermore, because of the substantial amount of discovery required in connection with intellectual property litigation, there is a risk that some of our confidential information could be compromised by disclosure during this type of litigation. There could also be public announcements of the results of hearings, motions, or other interim proceedings or developments. If securities analysts or investors perceive these results to be negative, it could have a material adverse effect on the price of our common stock.

We may become involved in disputes with our strategic partners over intellectual property ownership, and publications by our research collaborators and clinical investigators could impair our ability to obtain patent protection or protect our proprietary information, either of which would have a significant impact on our business.

Inventions discovered under our current or future strategic alliance agreements may become jointly owned by our strategic partners and us in some cases, and the exclusive property of one of us in other cases. Under some circumstances, it may be difficult to determine who owns a particular invention or whether it is jointly owned, and disputes could arise regarding ownership or use of those inventions. These disputes could be costly and time-consuming, and an unfavorable outcome could have a significant adverse effect on our business if we were not able to protect or license rights to these inventions. In addition, our research collaborators and clinical investigators generally have contractual rights to publish data arising from their work. Publications by our research collaborators and clinical investigators relating to our research and development programs, either with or without our consent, could benefit our current or potential competitors and may impair our ability to obtain patent protection or protect our proprietary information, which could significantly harm our business.

We may be subject to claims that our employees, consultants or independent contractors have wrongfully used or disclosed confidential information of third parties or that we or our employees have wrongfully used or disclosed trade secrets of their former employers.

Many of our employees were previously employed at universities or other biotechnology or pharmaceutical companies, including our competitors or potential competitors. Although no legal proceedings against us are currently pending, we may be subject to claims that these 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. If we fail in defending these claims, in addition to paying monetary damages, we may lose valuable intellectual property rights or personnel. A loss of key research personnel or their work product could hamper or prevent our ability to develop and commercialize certain potential drugs, which could significantly harm our business. Even if we are successful in defending against these claims, litigation could result in substantial costs and distract management.

Our competitors may develop drugs that are less expensive, safer or more effective than ours, which may diminish or eliminate the commercial success of any drugs that we may commercialize.

We compete with companies that have developed drugs or are developing drug candidates for cardiovascular diseases, diseases and conditions associated with muscle weakness or wasting and other diseases for which our drug candidates may be useful treatments. For example, if omecamtiv mecarbil is approved for marketing by the FDA or other regulatory authorities for the treatment of heart failure, it would compete against other drugs used for the treatment of acute and chronic heart failure. These include generic drugs, such as milrinone, dobutamine or digoxin and branded drugs such as Corlanor® (ivabradine), Entresto® (sacubitril/valsartan) and Verquvo® (vericiguat). Omecamtiv mecarbil could also potentially compete against other novel drug candidates and therapies in development, such as those being developed by, but not limited to, Novartis AG, Merck & Co., Inc., Bayer AG, AstraZeneca PLC and Bristol-Myers Squibb Company. Omecamtiv mecarbil may also compete with currently approved drugs, such as in the SGLT2 class, that have either expanded or are planning to expand their labels to include treatment of patients with heart failure, including Forxiga® (dapagliflozin), Invokana® (canagliflozin), and Jardiance® (empagliflozin). In addition, there are a number of medical devices both marketed and in development for the potential treatment of heart failure.

If reldesemtiv is approved for marketing by the FDA or other regulatory authorities for the treatment of ALS, it will then compete with RADICAVA™ (edaravone), the first FDA approved drug for the treatment of ALS since riluzole in 1995, and may then compete with other potential new therapies for ALS that are currently being developed by companies including, but not limited to, AB Science, Alexion Pharmaceuticals, Amylyx Pharmaceuticals Inc, BrainStorm Cell Therapeutics, Medicinova, Inc., Mitsubishi Tanabe Pharma Corporation, Orphazyme, and Revalesio Corporation. Also, if reldesemtiv is approved by the FDA or other regulatory authorities for the treatment of SMA, it may be used in combination with or compete with SPINRAZA® (nusinersen), Zolgensma® (onasemnogene abeparvovec-xioi) and/or Evrysdi™ (risdiplam) or any other potential new therapies being developed by companies including, but not limited to, F. Hoffman-La Roche Ltd. (in collaboration with PTC Therapeutics, Inc.). If reldesemtiv is approved by the FDA or other regulatory authorities for the treatment of non-neuromuscular indications associated with muscle weakness, it may then compete with other potential new therapies being developed by companies including, but not limited to, Regeneron Pharmaceuticals, Inc. (in collaboration with Sanofi), Eli Lilly and Company, Stealth BioTherapeutics, and Novartis (in collaboration with MorphoSys AG).

If aficamten is approved for marketing by the FDA or other regulatory authorities for the treatment of HCM, it may compete with mavacamten, a drug candidate being developed by Bristol-Myers Squibb Company for which a new drug application is currently pending with the FDA. Aficamten and mavacamten are both drugs that affect cardiac muscle contractility and any adverse regulatory action or other fact, matter or circumstance in connection to the development or commercialization of mavacamten may have an impact on our ability to obtain regulatory approval for, or the commercial prospects of, aficamten.

Our competitors may:

- develop drug candidates and market drugs that are less expensive or more effective than our future drugs;
- commercialize competing drugs before we or our partners can launch any drugs developed from our drug candidates;
- hold or obtain proprietary rights that could prevent us from commercializing our products;
- initiate or withstand substantial price competition more successfully than we can;
- more successfully recruit skilled scientific workers and management from the limited pool of available talent;
- more effectively negotiate third-party licenses and strategic alliances;
- take advantage of acquisition or other opportunities more readily than we can;
- develop drug candidates and market drugs that increase the levels of safety or efficacy that our drug candidates will need to show in order to obtain regulatory approval; or
- introduce therapies or market drugs that render the market opportunity for our potential drugs obsolete.

We will compete for market share against large pharmaceutical and biotechnology companies and smaller companies that are collaborating with larger pharmaceutical companies, new companies, academic institutions, government agencies and other public and private research organizations. Many of these competitors, either alone or together with their partners, may develop new drug candidates that will compete with ours. Many of these competitors have larger research and development programs or substantially greater financial resources than we do. Our competitors may also have significantly greater experience in:

- developing drug candidates;
- undertaking preclinical testing and clinical trials;
- building relationships with key customers and opinion-leading physicians;
- obtaining and maintaining FDA and other regulatory approvals of drug candidates;
- formulating and manufacturing drugs; and
- launching, marketing and selling drugs.

If our competitors market drugs that are less expensive, safer or more efficacious than our potential drugs, or that reach the market sooner than our potential drugs, we may not achieve commercial success. In addition, the life sciences industry is characterized by rapid technological change. If we fail to stay at the forefront of technological change, we may be unable to compete effectively. Our competitors may render our technologies obsolete by improving existing technological approaches or developing new or different approaches, potentially eliminating the advantages in our drug discovery process that we believe we derive from our research approach and proprietary technologies.

We have been granted orphan designation by the FDA and EMA for reldesemtiv for the potential treatment of SMA and ALS and orphan designation by the FDA for aficamten for the potential treatment of symptomatic HCM; however, there can be no guarantee that we will receive orphan approval for reldesemtiv or aficamten, nor that we will be able to prevent third parties from developing and commercializing products that are competitive to reldesemtiv or aficamten.

We have been granted orphan drug designation in the U.S. by the FDA for reldesemtiv for the potential treatment of SMA and the potential treatment of ALS and for aficamten for the potential treatment of symptomatic HCM. In the U.S., upon approval from the FDA of an NDA, products granted orphan drug designation are generally provided with seven years of marketing exclusivity in the U.S., meaning the FDA will generally not approve applications for other product candidates that contain the same active ingredient for the same orphan indication. Even if we are the first to obtain approval of an orphan product and are granted such exclusivity in the U.S., there are limited circumstances under which a later competitor product may be approved for the same indication during the seven-year period of marketing exclusivity, such as if the later product is shown to be clinically superior to our product or due to an inability to assure a sufficient quantity of the orphan drug.

EMA has granted orphan medicinal product designation to reldesemtiv for the potential treatment of SMA and the potential treatment of ALS. Orphan medicinal product status in the E.U. can provide up to 10 years of marketing exclusivity, meaning that another application for marketing authorization of a later similar medicinal product for the same therapeutic indication will generally not be approved in the E.U. Although we may have drug candidates that may obtain orphan drug exclusivity in Europe, the orphan approval and associated exclusivity period may be modified for several reasons, including a significant change to the orphan medicinal product designations or approval criteria after-market authorization of the orphan product (e.g., product profitability exceeds the criteria for orphan drug designation), problems with the production or supply of the orphan drug or a competitor drug, although similar, is safer, more effective or otherwise clinically superior than the initial orphan drug.

We are not guaranteed to maintain orphan status for reldesemtiv or aficamten or to receive orphan status for reldesemtiv or aficamten for any other indication or for any of our other drug candidates for any indication. We are not guaranteed to be granted orphan designation in the E.U. for aficamten by the EMA. If our drug candidates that are granted orphan status were to lose their status as orphan drugs or the marketing exclusivity provided for them in the U.S. or the E.U., our business and results of operations could be materially adversely affected. While orphan status for any of our products, if granted or maintained, would provide market exclusivity in the U.S. and the E.U. for the time periods specified above, we would not be able to exclude other companies from manufacturing and/or selling products using the same active ingredient for the same indication beyond the exclusivity period applicable to our product on the basis of orphan drug status. Moreover, we cannot guarantee that another company will not receive approval before we do of an orphan drug application in the U.S. or the E.U. for a product candidate that has the same active ingredient or is a similar medicinal product for the same indication as any of our drug candidates for which we plan to file for orphan designation and status. If that were to happen, our orphan drug applications for our drug candidate for that indication may not be approved until the competing company's period of exclusivity has expired in the U.S. or the E.U., as applicable. Further, application of the orphan drug regulations in the U.S. and Europe is uncertain, and we cannot predict how the respective regulatory bodies will interpret and apply the regulations to our or our competitors' products.

We have been granted Breakthrough Therapy Designation for aficamten by the FDA and we may seek additional special designations from regulatory authorities to expedite the review and approval process for our product candidates. However, these designations may not lead to a faster development or regulatory review or approval process, and it does not increase the likelihood that our product candidates will receive marketing approval.

We have been granted Breakthrough Therapy Designation for aficamten for oHCM by the FDA and may seek these and/or additional special designations from regulatory authorities to expedite the review and approval process for our product candidates.

A breakthrough therapy is defined as a drug candidate that is intended, alone or in combination with one or more other products, to treat a serious or life-threatening disease or condition, and preliminary clinical evidence indicates that the product may demonstrate substantial improvement over existing therapies on one or more clinically important endpoints, such as substantial treatment effects observed early in clinical development. For products that have been designated as breakthrough therapies, interaction and communication between the FDA and the sponsor of the trial can help to identify the most efficient path for clinical development while minimizing the number of patients placed in ineffective control regimens. Drug candidates designated as breakthrough therapies by the FDA can also be eligible for accelerated approval. If a drug candidate is intended for the treatment of a serious or life-threatening condition and the product demonstrates the potential to address unmet medical needs for this condition, the drug candidate sponsor may apply for Fast Track Designation.

Fast Track is an FDA process designed to facilitate the development and expedite the review of drugs to treat serious conditions and fill an unmet medical need. The purpose of the program is to make important new drugs available to the patient earlier. Filling an unmet medical need is defined as providing a therapy where none exists or providing a potential improvement upon the current standard of care. Once a drug candidate receives Fast Track Designation, early and frequent communication between the FDA and the sponsor is encouraged throughout the entire drug development and review process. The frequency of communication assures that questions and issues are resolved quickly, often leading to earlier drug approval and access by patients.

The FDA has broad discretion whether or not to grant these designations, so even if we believe a particular drug candidate is eligible for a particular designation, we cannot assure you that the FDA would decide to grant it. Accordingly, even if we believe one of our drug candidates meets the criteria for a designation, the FDA may disagree and instead determine not to make such designation. In any event, the receipt of a particular designation for a product candidate may not result in a faster development process, review or approval compared to drug candidates considered for approval under conventional FDA procedures and does not assure ultimate approval by the FDA. In addition, even if one or more of our drug candidates qualify as breakthrough therapies, the FDA may later decide that the products no longer meet the conditions for qualification and rescind the breakthrough designation. Further, the FDA may withdraw Fast Track Designation if it believes that the designation is no longer supported by data from a clinical development program.

If we are unable to maintain any existing Breakthrough Therapy Designation or Fast Track Designation or fail to secure such designation for any additional product candidates, this would have an adverse impact on our development timelines and our ability to obtain approval for and commercialize our product candidates.

Our failure to attract and retain skilled personnel could impair our drug development, commercialization and financial reporting activities.

Our business depends on the performance of our senior management and key scientific, commercial and technical personnel. The loss of the services of any member of our senior management or key scientific, technical, commercial or financial reporting staff may significantly delay or prevent the achievement of drug development and other business objectives by diverting management's attention to transition matters and identifying suitable replacements. For example, our management concluded that our internal controls over financial reporting were not effective as of December 31, 2018 because an unremediated material weakness existed in our internal control over financial reporting related to employee turnover resulting in a temporary lack of resources in financial reporting roles with the appropriate skills to perform effective review during our financial statement close process. We also rely on consultants and advisors to assist us in formulating our research and development strategy. All of our consultants and advisors are either self-employed or employed by other organizations, and they may have conflicts of interest or other commitments, such as consulting or advisory contracts with other organizations, that may affect their ability to contribute to us. In addition, if and as our business grows, we will need to recruit additional executive management and scientific, technical and financial reporting personnel. There is intense competition for skilled executives and employees with relevant scientific and technical expertise, and this competition is likely to continue. Our inability to attract and retain sufficient scientific, technical, commercial and managerial personnel could limit or delay our product development or commercialization activities, which would adversely affect the development of our drug candidates and commercialization of our potential drugs and growth of our business.

We may expand our development and clinical research capabilities and, as a result, we may encounter difficulties in managing our growth, which could disrupt our operations.

We may have growth in our expenditures, the number of our employees and the scope of our operations, in particular with respect to those drug candidates that we elect to develop or commercialize independently or together with a partner. To manage our anticipated future growth, we must continue to implement and improve our managerial, operational and financial systems, expand our facilities and continue to recruit and train additional qualified personnel. Due to our limited resources, we may not be able to effectively manage the expansion of our operations or recruit and train additional qualified personnel. The physical expansion of our operations may lead to significant costs and may divert our management and business development resources. Any inability to manage growth could delay the execution of our business plans or disrupt our operations.

We currently are building sales and marketing capabilities but do not possess all these capabilities at this time. If we are unable to enter into or maintain strategic alliances with marketing partners or to fully develop our own sales and marketing capabilities, we may not be successful in commercializing omecamtiv mecarbil or our other potential drugs.

We currently are building sales, marketing and distribution capabilities. We plan to commercialize drugs that can be effectively marketed and sold in concentrated markets that do not require a large sales force to be competitive. To achieve this goal, we will need to fully develop our own capabilities inclusive of market access, sales force and marketing organization with technical expertise and supporting distribution capabilities. Developing such an organization is expensive and time-consuming and could delay a product launch. In addition, we may not be able to develop this capacity efficiently, cost-effectively or at all, which could make us unable to commercialize our drugs. If we determine not to market our drugs on our own, we will depend on strategic alliances with third parties which have established distribution systems and direct sales forces to commercialize them. If we are unable to enter into such arrangements on acceptable terms, we may not be able to successfully commercialize these drugs. To the extent that we are not successful in commercializing any drugs ourselves or through a strategic alliance, our product revenues and business will suffer and our stock price would decrease.

In relation to omecamtiv mecarbil specifically, prior to Amgen's notification of its election to terminate the Amgen Agreement, we expected that, consistent with the terms of such agreement, Amgen would bear primary operational and financial responsibility for the sales, marketing, manufacturing and distribution activities related to the product launch and commercialization of omecamtiv mecarbil. As a result of the termination of the Amgen Agreement, we must now build and/or expand our capabilities without Amgen's operational or financial support, which will result in significantly higher costs to us than what we had expected prior to Amgen's notification of its election to terminate the Amgen Agreement, and we may never be able to successfully build and/or expand our commercialization capabilities to fully substitute the capabilities of Amgen of which we were reliant upon. Moreover, as a result of Servier's notification of its election to terminate the Servier Agreement, we will need to seek a replacement partner in Europe with the expertise and resources to successfully launch and commercialize omecamtiv mecarbil in Europe or to establish our own commercial capabilities in Europe at our own cost and effort.

Even if our drug candidates are approved, we may experience difficulties or delays in achieving market access, reimbursement and favorable drug pricing for our drug products.

We currently have limited interactions and relationships with payors. Over time, we anticipate that our drugs will be adopted by our patients as indicated by the labels once they are approved by regulatory authorities. To achieve this adoption, our drugs will need to be covered and listed in formularies of major pharmacy benefit managers ("PBMs") and payors in the U.S. These major PBMs and payors include Medicare, Medicaid, VA, DoD, Tri Care, and other commercial payors with whom we have had limited interactions. The process to achieve coverage with PBMs and payors can be time consuming, is not guaranteed and if achieved can impact profitability given the level of rebates often required.

Specifically in relation to omecamtiv mecarbil, even if such drug candidate is approved by the FDA or other regulatory authorities for commercialization, it may not become a guideline-directed medical therapy for heart failure or it may not reach such status in a timely manner upon commercialization, which may adversely impact its sales prospects. Furthermore, we assume omecamtiv mecarbil will have a disproportionally larger share of Medicare patients relative to commercial and other payors. Overall coverage could be delayed given Medicare's bid timelines for inclusion in the Medicare Part D formulary. In addition, the rebate levels we may have to offer to PBMs and payors to be included in their formularies may also impact the profitability of omecamtiv mecarbil.

Moreover, pricing of our drug candidates, if approved by the FDA or other regulatory authorities for commercialization, may be impacted by cost-effectiveness and economic analyses by a Health Technology Assessment (HTA) organization such as the Institute for Clinical and Economic Review ("ICER"), an independent non-profit research institute that produces reports analyzing the evidence underlying the effectiveness and value of drugs and other medicinal services. ICER assessments and recommended pricing based on cost-effectiveness may affect our ability to obtain favorable pricing terms with Medicare, Medicaid, VA, DoD, Tri Care, and other commercial payors. For example, in November 2021, ICER published its final evidence report and policy recommendations related to mavacamten, a small molecule myosin inhibitor being developed by Bristol-Myers Squibb Company (formerly by MyoKardia, Inc.) that has a similar mechanism of action to aficamten. The report concluded that a majority of contributing panelists found that current evidence was not adequate to demonstrate a net health benefit for mavacamten added to background therapy when compared to background therapy alone or a net health benefit of mavacamten when compared to disopyramide. Moreover, ICER's final report concluded that modeling short-term clinical benefits of mavacamten over a longer time period produces a health-benefit price benchmark index for mavacamten between $12,000-$15,000 per year, significantly lower than the $75,000 annual price that some industry analysts had forecasted. Whilst not binding on Medicare, Medicaid, VA, DoD, Tri Care, and other commercial payors, or indicative of the net health benefits, ICER could conclude for aficamten a similar conclusion that could adversely impact our ability to obtain favorable pricing.

Our internal computer systems, or those of our CROs, CMOs, supply chain partners, collaboration partners or other contractors or consultants, may fail or suffer security breaches, which could result in a material disruption of our drug development programs.

Despite the implementation of security measures, our internal computer systems and those of our third-party CROs, CMOs, supply chain partners, collaboration partners and other contractors and consultants are vulnerable to damage from computer viruses, unauthorized access, natural disasters, terrorism, war and telecommunication and electrical failures. If such an event were to occur and cause interruptions in our operations, it could result in a material disruption of our drug development programs. For example, the loss of clinical study data from completed or ongoing clinical studies for any of our drug candidates could result in delays in our regulatory approval efforts and significantly increase our costs to recover or reproduce the data. To the extent that any disruption or security breach were to result in a loss of or damage to our data or applications, or inappropriate disclosure of confidential or proprietary information, we could incur liability, our operations could be compromised and the further development of our product candidates could be delayed.

Significant disruptions of information technology systems or breaches of data security could adversely affect our business.

Our business is increasingly dependent on complex and interdependent information technology systems, including internet-based systems, databases and programs, to support our business processes as well as internal and external communications. As use of information technology systems has increased, deliberate attacks and attempts to gain unauthorized access to computer systems and networks have increased in frequency and sophistication. Our information technology, systems and networks are potentially vulnerable to breakdown, malicious intrusion and computer viruses which may result in the impairment of production and key business processes or loss of data or information. We are also potentially vulnerable to data security breaches—whether by employees or others—which may expose sensitive data to unauthorized persons. We have in the past and may in the future be subject to security breaches. For example, in February 2018, we discovered that our e-mail server suffered unauthorized intrusions in which proprietary business information was accessed. In addition, in December 2019, one of our employee's email account suffered an unauthorized intrusion, leading to the submission and inadvertent payment of a fraudulent invoice in the amount of approximately one hundred thousand dollars. In December 2019, our IT systems were exposed to a ransomware attack, which partially impaired certain IT systems for a short period of time. Finally, in September 2020, one of our employees' email account suffered unauthorized access as result of a phishing incident, but the Company believes no sensitive information was accessed. Although we do not believe that we have experienced any material losses related to security breaches, including in three recent email "phishing" incidents or the ransomware attack, there can be no assurance that we will not suffer such losses in the future. Breaches and other inappropriate access can be difficult to detect and any delay in identifying them could increase their harm. While we have implemented measures to protect our data security and information technology systems, such measures may not prevent these events. Any such breaches of security and inappropriate access could disrupt our operations, harm our reputation or otherwise have a material adverse effect on our business, financial condition and results of operations.

Our revenue to date has been primarily derived from our research and license agreements, which can result in significant fluctuation in our revenue from period to period, and our past revenue is therefore not necessarily indicative of our future revenue.

Our revenue is primarily derived from our research and license agreements, from which we receive upfront fees, contract research payments, milestone and other contingent payments based on clinical progress, regulatory progress or net sales achievements and royalties. Significant variations in the timing of receipt of cash payments and our recognition of revenue can result from significant payments based on the execution of new research and license agreements, the timing of clinical outcomes, regulatory approval, commercial launch or the achievement of certain annual sales thresholds. The amount of our revenue derived from research and license agreements in any given period will depend on a number of unpredictable factors, including our ability to find and maintain suitable collaboration partners, the timing of the negotiation and conclusion of collaboration agreements with such partners, whether and when we or our collaboration partners achieve clinical, regulatory and sales milestones, the timing of regulatory approvals in one or more major markets, reimbursement levels by private and government payors, and the market introduction of new drugs or generic versions of the approved drug, as well as other factors. Our past revenue generated from these agreements is not necessarily indicative of our future revenue. If any of our existing or future collaboration partners fails to develop, obtain regulatory approval for, manufacture or ultimately commercialize any product candidate under our collaboration agreement, our business, financial condition, and results of operations could be materially and adversely affected.

Conversion of our outstanding 2026 Notes may result in the dilution of existing stockholders, create downward pressure on the price of our common stock, and restrict our ability to take advantage of future opportunities.

The 2026 Notes may be converted into cash and shares of our common stock (subject to our right or obligation to pay cash in lieu of all or a portion of such shares). If shares of our common stock are issued to the holders of the 2026 Notes upon conversion, there will be dilution to our stockholders' equity and the market price of our shares may decrease due to the additional selling pressure in the market. Any downward pressure on the price of our common stock caused by the sale or potential sale of shares issuable upon conversion of the 2026 Notes could also encourage short sales by third parties, creating additional selling pressure on our stock. The existence of the 2026 Notes and the obligations that we incurred by issuing them may restrict our ability to take advantage of certain future opportunities, such as engaging in future debt or equity financing activities.

The capped call transactions may affect the value of the 2026 Notes and our common stock.

In connection with the issuance of the 2026 Notes, we entered into certain capped call transactions (the "Capped Call Transactions") with the capped call counterparty. The Capped Call Transactions are generally expected to reduce the potential dilution as a result of conversion of the 2026 Notes and/or offset any cash payments we are required to make in excess of the principal amount of converted notes, as the case may be, with such reduction and/or offset subject to a cap.

In connection with establishing its initial hedge of the Capped Call Transactions, the capped call counterparty or its affiliates purchased shares of our common stock and/or entered into various derivative transactions with respect to our common stock. This activity could have increased (or reduced the size of any decrease in) the market price of our common stock or the 2026 Notes at that time.

In addition, the capped call counterparty or its affiliates may modify their hedge positions by entering into or unwinding various derivatives with respect to our common stock and/or purchasing or selling our common stock or other securities of ours in secondary market transactions (and are likely to do so on each exercise date of the Capped Call Transactions, which are expected to occur during the 60 trading day period beginning on the 61st scheduled trading day prior to the maturity date of the 2026 Notes, or following any termination of any portion of the Capped Call Transaction in connection with any repurchase, redemption or early conversion of the 2026 Notes). This activity could also cause or avoid an increase or a decrease in the market price of our common stock or the 2026 Notes.

We are subject to counterparty risk with respect to the Capped Call Transactions.

The capped call counterparty to the agreement related to the Capped Call Transactions (the "Capped Call Agreements") is a financial institution, and we will be subject to the risk that the capped call counterparty may default or otherwise fail to perform, or may exercise certain rights to terminate, its obligations under the Capped Call Agreements. Our exposure to the credit risk of the capped call counterparty will not be secured by any collateral. If the capped call counterparty becomes subject to insolvency proceedings, we will become an unsecured creditor in those proceedings with a claim equal to our exposure at the time under such transaction. Our exposure will depend on many factors but, generally, our exposure will increase if the market price or the volatility of our common stock increases. In addition, upon a default or other failure to perform, or a termination of obligations, under the Capped Call Agreements by the capped call counterparty, we may suffer adverse tax consequences and more dilution than we currently anticipate with respect to our common stock. We can provide no assurances as to the financial stability or viability of the capped call counterparty.

Risks Related to Our Industry

The regulatory approval process is expensive, time-consuming and uncertain and may prevent our partners or us from obtaining approvals to commercialize some or all of our drug candidates.

The research, testing, manufacturing, selling and marketing of drugs are subject to extensive regulation by the FDA and other regulatory authorities in the United States and other countries, and regulations differ from country to country. Neither we nor our partners are permitted to market our potential drugs in the United States until we receive approval of an NDA from the FDA. Neither we nor our partners have received NDA or other marketing approval for any of our drug candidates.

Obtaining NDA approval is a lengthy, expensive and uncertain process. In addition, failure to comply with FDA and other applicable foreign and U.S. regulatory requirements may subject us to administrative or judicially imposed sanctions. These include warning letters, civil and criminal penalties, injunctions, product seizure or detention, product recalls, total or partial suspension of production, and refusal to approve pending NDAs or supplements to approved NDAs.

Regulatory approval of an NDA or NDA supplement is never guaranteed, and the approval process typically takes several years and is extremely expensive. The FDA and foreign regulatory agencies also have substantial discretion in the drug approval process, and the guidance and advice issued by such agencies is subject to change at any time. Despite the time and efforts exerted, failure can occur at any stage, and we may encounter problems that cause us to abandon clinical trials or to repeat or perform additional preclinical testing and clinical trials. The number and focus of preclinical studies and clinical trials that will be required for approval by the FDA and foreign regulatory agencies varies depending on the drug candidate, the disease or condition that the drug candidate is designed to address, and the regulations applicable to any particular drug candidate. In addition, the FDA may require that a proposed Risk Evaluation and Mitigation Strategy ("REMS") be submitted as part of an NDA if the FDA determines that it is necessary to ensure that the benefits of the drug outweigh its risks. The FDA and foreign regulatory agencies can delay, limit or deny approval of a drug candidate for many reasons, including, but not limited to:

- they might determine that a drug candidate is not safe or effective;
- they might not find the data from non-clinical testing and clinical trials sufficient and could request that additional trials be performed;
- they might not approve our, our partner's or the contract manufacturer's processes or facilities; or
- they might change their approval policies or adopt new regulations.

Even if we receive regulatory approval to manufacture and sell a drug in a particular regulatory jurisdiction, other jurisdictions' regulatory authorities may not approve that drug for manufacture and sale. If we or our partners fail to receive and maintain regulatory approval for the sale of any drugs resulting from our drug candidates, it would significantly harm our business and negatively affect our stock price.

Failure to obtain regulatory approvals in foreign jurisdictions would prevent us from marketing our products internationally.

In order to market any product in the EEA (which is composed of the 27 member states of the E.U. plus Norway, Iceland and Liechtenstein), and many other foreign jurisdictions, separate regulatory approvals are required. In the EEA, medicinal products can only be commercialized after obtaining a Marketing Authorization ("MA"). Before the MA is granted, the EMA or the competent authorities of the member states of the EEA make an assessment of the risk-benefit balance of the product on the basis of scientific criteria concerning its quality, safety and efficacy.

The approval procedures vary among countries and can involve additional clinical testing, and the time required to obtain approval may differ from that required to obtain FDA approval. Clinical trials conducted in one country may not be accepted by regulatory authorities in other countries. Approval by the FDA does not ensure approval by regulatory authorities in other countries, and approval by one or more foreign regulatory authorities does not ensure approval by regulatory authorities in other foreign countries or by the FDA. However, a failure or delay in obtaining regulatory approval in one country may have a negative effect on the regulatory process in others. The foreign regulatory approval process may include all of the risks associated with obtaining FDA approval. We may not be able to file for regulatory approvals or to do so on a timely basis, and even if we do file we may not receive necessary approvals to commercialize our products in any market.

If we or our partners receive regulatory approval for our drug candidates, we or they will be subject to ongoing obligations to and continued regulatory review by the FDA and foreign regulatory agencies, and may be subject to additional post-marketing obligations, all of which may result in significant expense and limit commercialization of our potential drugs.

Any regulatory approvals that we or our partners receive for our drug candidates may be subject to limitations on the indicated uses for which the drug may be marketed or require potentially costly post-marketing follow-up studies or compliance with a REMS. In addition, if the FDA or foreign regulatory agencies approves any of our drug candidates, the labeling, packaging, adverse event reporting, storage, advertising, promotion and record-keeping for the drug will be subject to extensive regulatory requirements. The subsequent discovery of previously unknown problems with the drug, including adverse events of unanticipated severity or frequency, or the discovery that adverse events or toxicities observed in preclinical research or clinical trials that were believed to be minor constitute much more serious problems, may result in restrictions on the marketing of the drug or withdrawal of the drug from the market.

The FDA and foreign regulatory agencies may change their policies and additional government regulations may be enacted that could prevent or delay regulatory approval of our drug candidates. We cannot predict the likelihood, nature or extent of adverse government regulation that may arise from future legislation or administrative action, either in the United States or abroad. If we are not able to maintain regulatory compliance, we might not be permitted to market our drugs and our business would suffer.

If physicians and patients do not accept our drugs, we may be unable to generate significant revenue, if any.

Even if our drug candidates obtain regulatory approval, the resulting drugs, if any, may not gain market acceptance among physicians, healthcare payors, patients and the medical community. Even if the clinical safety and efficacy of drugs developed from our drug candidates are established for purposes of approval, physicians may elect not to recommend these drugs for a variety of reasons including, but not limited to:

- introduction of competitive drugs to the market;
- clinical safety and efficacy of alternative drugs or treatments;
- cost-effectiveness;
- availability of coverage and reimbursement from health maintenance organizations and other third-party payors;
- convenience and ease of administration;
- prevalence and severity of adverse events;
- other potential disadvantages relative to alternative treatment methods; or
- insufficient patient support;
- insufficient marketing and distribution support.

If our drugs fail to achieve market acceptance, we may not be able to generate significant revenue and our business would suffer.

The commercial success of our products depends on the availability and sufficiency of third-party payor coverage and reimbursement.

Patients in the United States and elsewhere generally rely on third-party payors to reimburse part or all of the costs associated with their prescription drugs. Accordingly, market acceptance of our products is dependent on the extent to which third-party coverage and reimbursement is available from government health administration authorities (including in connection with government healthcare programs, such as Medicare and Medicaid in the United States), private healthcare insurers and other healthcare funding organizations. Significant uncertainty exists as to the coverage and reimbursement status of any products for which we may obtain regulatory approval. Even if we obtain coverage for a given drug product, the timeframe from approval to coverage could be lengthy, inadequate, and/or the associated reimbursement rate may not be adequate to cover our costs, including research, development, intellectual property, manufacture, sale and distribution expenses, or may require co-payments that patients find unacceptably high.

Coverage and reimbursement policies for drug products can differ significantly from payor to payor as there is no uniform policy of coverage and reimbursement for drug products among third-party payors in the United States. There may be significant delays in obtaining coverage and reimbursement as the process of determining coverage and reimbursement is often time-consuming and costly which will require us to provide scientific and clinical support for the use of our products to each payor separately, with no assurance that coverage or adequate reimbursement will be obtained. It is difficult to predict at this time what third-party will decide with respect to coverage and reimbursement for our products. Coverage policies and third party reimbursement rates may change at any time. Even if favorable coverage and reimbursement status is attained for one or more products for which we receive regulatory approval, less favorable coverage policies and reimbursement rates may be implemented in the future.

In addition, there is significant uncertainty regarding the reimbursement status of newly approved healthcare products. We may need to conduct expensive pharmacoeconomic studies in order to demonstrate the cost-effectiveness of our products. If third-party payors do not consider our products to be cost-effective compared to other therapies, the payors may not cover our products 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.

We expect that increased emphasis on cost containment measures in the United States by third-party payors to continue and will place pressure on pharmaceutical pricing and coverage. Coverage policies and third-party reimbursement rates may change at any time. Therefore, even if favorable coverage and reimbursement status is attained for one or more drug products for which we receive regulatory approval, less favorable coverage policies and reimbursement rates may be implemented in the future. If we are unable to obtain and maintain sufficient third-party coverage and adequate reimbursement for our products, the commercial success of our drug products may be greatly hindered and our financial condition and results of operations may be materially and adversely affected.

Recently enacted and future legislation, including potentially unfavorable pricing regulations or other healthcare reform initiatives, may increase the difficulty and cost for us to obtain regulatory approval of and commercialize our product candidates and affect the prices we may obtain.

The regulations that govern, among other things, regulatory approvals, coverage, pricing and reimbursement for new drug products vary widely from country to country. 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 regulatory approval of our product candidates, restrict or regulate post-approval activities and affect our ability to successfully sell any product candidates for which we obtain regulatory approval. In particular, in March 2010, the Patient Protection and Affordable Care Act, as amended by the Health Care and Education Reconciliation Act (collectively, the “ACA”) 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 ACA and its implementing regulations, among other things, addressed a new methodology by which rebates owed by manufacturers under the Medicaid Drug Rebate Program are calculated for certain drugs and biologics, including our product candidates that are inhaled, infused, instilled, implanted or injected, increased the minimum Medicaid rebates owed by manufacturers under the Medicaid Drug Rebate Program, extended the Medicaid Drug Rebate Program to utilization of prescriptions of individuals enrolled in Medicaid managed care organizations, subjected manufacturers to new annual fees and taxes for certain branded prescription drugs, provided incentives to programs that increase the federal government’s comparative effectiveness research and established a new Medicare Part D coverage gap discount program.

Other legislative changes have been proposed and adopted in the United States since the ACA was enacted. In August 2011, the Budget Control Act of 2011, among other things, created measures for spending reductions by the U.S. Congress. A Joint Select Committee on Deficit Reduction, tasked with recommending a targeted deficit reduction of at least $1.2 trillion for the years 2013 through 2021, was unable to reach required goals, thereby triggering the legislation's automatic reduction to several government programs. This includes aggregate reductions of Medicare payments to providers of 2% per fiscal year, which went into effect in April 2013, and, due to subsequent legislative amendments, will remain in effect through 2031, except for a temporary suspension from May 1, 2020 through March 31, 2022 due to the COVID-19 pandemic, unless additional Congressional action is taken. Under current legislation, the actual reduction in Medicare payments will vary from 1% in 2022 to up to 3% in the final fiscal year of this sequester. In January 2013, the American Taxpayer Relief Act of 2012 was enacted which, among other things, further reduced Medicare payments to several providers, including hospitals and outpatient clinics, and increased the statute of limitations period for the government to recover overpayments to providers from three to five years.

Since its enactment, there have been executive, judicial and Congressional challenges to numerous elements of the ACA, as well as efforts to repeal or replace certain aspects of the ACA. For example, on June 17, 2021 the U.S. Supreme Court dismissed a challenge on procedural grounds that argued the ACA is unconstitutional in its entirety because the "individual mandate" was repealed by Congress. Thus, the ACA will remain in effect in its current form. It is possible that the ACA will be subject to executive, judicial, and Congressional challenges in the future. It is unclear how any such challenges will impact the ACA and our business. The U.S. Congress may consider and adopt other legislation to repeal and replace all or certain elements of the ACA. Policy changes, including potential modification or repeal of all or parts of the ACA or the implementation of new health care legislation, could result in significant changes to the health care system which may adversely affect our business in unpredictable ways.

There have been, and likely will continue to be, legislative and regulatory proposals at the foreign, federal and state levels directed at broadening the availability of healthcare and containing or lowering the cost of healthcare. For example, there is proposed legislation that would require (i) the Department of Health and Human Services to directly negotiate drug prices with manufacturers and require rebates for drugs covered under Medicare Part B whose price rises above inflation and (ii) restructuring the Medicare Part D benefit, imposing more financial responsibility on certain drug manufacturers. No legislative actions have been finalized. However, we cannot predict the timing or substance of proposals that may be adopted in the future, particularly in light of the difficulty of advancing legislation through Congress. The continuing efforts of governments, insurance companies, managed care organizations and other payors of healthcare services to contain or reduce costs of healthcare, including by imposing price controls, may adversely affect the demand for our product candidates for which we obtain regulatory approval and our ability to set a price that we believe is fair for our products. Any reduction in reimbursement from Medicare or other government programs may result in a similar reduction in payments from private payors.

Legislative and regulatory proposals have been made to expand post-approval requirements and restrict sales and promotional activities for pharmaceutical products. We cannot be sure whether additional legislative changes will be enacted, or whether the FDA or foreign regulations, guidance or interpretations will be changed, or what the impact of these changes on the regulatory approvals of our product candidates, if any, may be. In the United States, the E.U. and other potentially significant markets for our product candidates, government authorities and third-party payors are increasingly attempting to limit or regulate the price of medical products and services, particularly for new and innovative products and therapies, which has resulted in lower average selling prices. For example, in the United States, there have been several recent Congressional inquiries and proposed and enacted federal and state legislation designed to, among other things, bring more transparency to drug pricing, review the relationship between pricing and manufacturer patient programs, and reform government program reimbursement methodologies for drugs. At the state level, legislatures have increasingly passed legislation and implemented regulations designed to control pharmaceutical and biological product pricing, including price or patient reimbursement constraints, discounts, restrictions on certain product access and marketing cost disclosure and transparency measures, and, in some cases, to encourage importation from other countries and bulk purchasing. Furthermore, the increased emphasis on managed healthcare in the United States and on country and regional pricing and reimbursement controls in the E.U. will put additional pressure on product pricing, reimbursement and usage, which may adversely affect our future product sales. These pressures can arise from rules and practices of managed care groups, judicial decisions and governmental laws and regulations related to Medicare, Medicaid and healthcare reform, pharmaceutical reimbursement policies and pricing in general.

We cannot predict the likelihood, nature, or extent of health reform initiatives that may arise from future legislation or administrative action, particularly as a result of the new Biden presidential administration. Furthermore, it is possible that additional governmental action is taken in respect to the COVID-19 pandemic.

We may be subject to costly product liability or other liability claims and may not be able to obtain adequate insurance.

The use of our drug candidates in clinical trials may result in adverse events. We cannot predict all the possible harms or adverse events that may result from our clinical trials. We currently maintain limited product liability insurance. We may not have sufficient resources to pay for any liabilities resulting from a personal injury or other claim excluded from, or beyond the limit of, our insurance coverage. Our insurance does not cover third parties' negligence or malpractice, and our clinical investigators and sites may have inadequate insurance or none at all. In addition, in order to conduct clinical trials or otherwise carry out our business, we may have to contractually assume liabilities for which we may not be insured. If we are unable to look to our own insurance or a third party's insurance to pay claims against us, we may have to pay any arising costs and damages ourselves, which may be substantial.

In addition, if we commercially launch drugs based on our drug candidates, we will face even greater exposure to product liability claims. This risk exists even with respect to those drugs that are approved for commercial sale by the FDA and foreign regulatory agencies and manufactured in licensed and regulated facilities. We intend to secure additional limited product liability insurance coverage for drugs that we commercialize, but may not be able to obtain such insurance on acceptable terms with adequate coverage, or at reasonable costs. Even if we are ultimately successful in product liability litigation, the litigation would consume substantial amounts of our financial and managerial resources and may create adverse publicity, all of which would impair our ability to generate sales of the affected product and our other potential drugs. Moreover, product recalls may be issued at our discretion or at the direction of the FDA and foreign regulatory agencies, other governmental agencies or companies having regulatory control for drug sales. Product recalls are generally expensive and often have an adverse effect on the reputation of the drugs being recalled and of the drug's developer or manufacturer.

We may be required to indemnify third parties against damages and other liabilities arising out of our development, commercialization and other business activities, which could be costly and time-consuming and distract management. If third parties that have agreed to indemnify us against damages and other liabilities arising from their activities do not fulfill their obligations, then we may be held responsible for those damages and other liabilities.

Our relationships with customers, healthcare providers, clinical trial sites and professionals and third-party payors will be subject to applicable anti-kickback, fraud and abuse and other laws and regulations. If we fail to comply with federal, state and foreign laws and regulations, including healthcare, privacy and data security laws and regulations, we could face criminal sanctions, civil penalties, contractual damages, reputational harm and diminished profits and future earnings.

Healthcare providers, including physicians and third-party payors play a primary role in the recommendation and prescription of any drug candidates for which we may obtain marketing approval. Our arrangements with customers, healthcare providers and third-party payors may expose us to broadly applicable fraud and abuse and other healthcare laws and regulations that may constrain the business or financial arrangements and relationships through which we develop, and may market, sell and distribute, our products for which we obtain marketing approval. Restrictions under applicable federal and state healthcare laws and regulations, include, but are not limited to, 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 federally funded healthcare programs such as Medicare and Medicaid. This statute has been broadly interpreted to apply to manufacturer arrangements with prescribers, purchasers and formulary managers, among others. Several other countries, including the United Kingdom, have enacted similar anti-kickback, fraud and abuse, and healthcare laws and regulations.
- The federal false claims laws, including the False Claims Act, which can be enforced through whistleblower or qui tam actions, imposes penalties 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. The government and qui tam relators have brought False Claims Act actions against pharmaceutical companies on the theory that their practices have caused false claims to be submitted to the government.

- The federal Health Insurance Portability and Accountability Act of 1996, or HIPAA, as amended by the Health Information Technology for Economic and Clinical Health Act, imposes criminal and civil liability for executing a scheme to defraud any healthcare benefit program. HIPAA also imposes obligations, including mandatory contractual terms, with respect to safeguarding the privacy, security and transmission of individually identifiable health information. HIPAA also imposes criminal liability for 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.
- The federal Physician Payments Sunshine Act requires manufacturers of drugs, devices, biologics and medical supplies to report to the HHS information related to payments and other transfers of value made to or at the request of physicians (defined to include doctors, dentists, optometrists, podiatrists and chiropractors), other health care professionals (such as physician assistants and nurse practitioners), and teaching hospitals, as well as information regarding ownership and investment interests held by physicians and their immediate family members. Payments made to physicians and research institutions for clinical trials are included within the ambit of this law.
- 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 in addition to requiring drug manufacturers to report information related to payments to physicians and other health care providers or marketing expenditures and state and local laws that require the registration of sales representatives.

Efforts to ensure that our business arrangements with third parties will comply with applicable healthcare laws and regulations will involve substantial costs. It is possible that governmental authorities will conclude that our business practices may not comply with current or future statutes, regulations or case law involving applicable fraud and abuse or other healthcare laws and regulations. If our operations are found to be in violation of any of these laws or any other governmental regulations that may apply to us, we may be subject to significant civil, criminal and administrative penalties, damages, fines, exclusion from government funded healthcare programs, such as Medicare and Medicaid, and the curtailment or restructuring of our operations. Exclusion, suspension and debarment from government funded healthcare programs would significantly impact our ability to commercialize, sell or distribute any drug. If any of the physicians or other providers or entities with whom we expect to do business are found to be not in compliance with applicable laws, they may be subject to criminal, civil or administrative sanctions, including exclusions from government funded healthcare programs.

European data collection is governed by restrictive regulations governing the collection, use, processing and cross-border transfer of personal information.

We may collect, process, use or transfer personal information from individuals located in the E.U. in connection with our business, including in connection with conducting clinical trials in the E.U. Additionally, if any of our product candidates are approved, we may seek to commercialize those products in the E.U. The collection and use of personal health data in the E.U. are governed by the provisions of the General Data Protection Regulation ((EU) 2016/679) ("GDPR"). This legislation imposes requirements relating to having legal bases for processing personal information relating to identifiable individuals and transferring such information outside of the EEA, including to the U.S., providing details to those individuals regarding the processing of their personal information, keeping personal information secure, having data processing agreements with third parties who process personal information, responding to individuals' requests to exercise their rights in respect of their personal information, reporting security breaches involving personal data to the competent national data protection authority and affected individuals, appointing data protection officers, conducting data protection impact assessments and record-keeping. The GDPR imposes additional responsibilities and liabilities in relation to personal data that we process and we may be required to put in place additional mechanisms ensuring compliance with the new data protection rules. Failure to comply with the requirements of the GDPR and related national data protection laws of the member states of the E.U. may result in substantial fines, other administrative penalties and civil claims being brought against us, which could have a material adverse effect on our business, financial condition and results of operations.

European data protection laws, including the GDPR, generally restrict the transfer of personal information from Europe, including the EEA, United Kingdom and Switzerland, to the United States and most other countries unless the parties to the transfer have implemented specific safeguards to protect the transferred personal information. One of the primary safeguards allowing United States companies to import personal information from Europe has been certification to the EU-U.S. Privacy Shield and Swiss-U.S. Privacy Shield frameworks administered by the United States Department of Commerce. However, the Court of Justice of the EU recently invalidated the EU-U.S. Privacy Shield. The same decision also raised questions about whether one of the primary alternatives to the EU-U.S. Privacy Shield, namely, the European Commission's Standard Contractual Clauses, can lawfully be used for personal information transfers from Europe to the United States or most other countries. At present, there are few, if any, viable alternatives to the EU-U.S. Privacy Shield and the Standard Contractual Clauses. Although we rely primarily on individuals' explicit consent to transfer their personal information from Europe to the United States and other countries, in certain cases we have relied or may rely on the Standard Contractual Clauses. Authorities in the United Kingdom and Switzerland, whose data protection laws are similar to those of the EU, may similarly invalidate use of the EU-U.S. Privacy Shield and Swiss-U.S. Privacy Shield, respectively, as mechanisms for lawful personal information transfers from those countries to the United States. As such, if we are unable to rely on explicit consent to transfer individuals' personal information from Europe, which can be revoked, or implement another valid compliance solution, we will face increased exposure to substantial fines under European data protection laws as well as injunctions against processing personal information from Europe. Inability to import personal information from the EEA, United Kingdom or Switzerland may also restrict our clinical trial activities in Europe; limit our ability to collaborate with CROs, service providers, contractors and other companies subject to European data protection laws; and require us to increase our data processing capabilities in Europe at significant expense. Additionally, other countries outside of Europe have enacted or are considering enacting similar cross-border data transfer restrictions and laws requiring local data residency, which could increase the cost and complexity of delivering our services and operating our business.

Responding to any claims relating to improper handling, storage or disposal of the hazardous chemicals and radioactive and biological materials we use in our business could be time-consuming and costly.

Our research and development processes involve the controlled use of hazardous materials, including chemicals and radioactive and biological materials. Our operations produce hazardous waste products. We cannot eliminate the risk of accidental contamination or discharge and any resultant injury from those materials. Federal, state and local laws and regulations govern the use, manufacture, storage, handling and disposal of hazardous materials. We may be sued for any injury or contamination that results from our or third parties' use of these materials. Compliance with environmental laws and regulations is expensive, and current or future environmental regulations may impair our research, development and production activities.

Generic Risk Factors

We are obligated to develop and maintain proper and effective internal control over financial reporting. In the future, we may not complete our execution of our internal control over financial reporting in a timely manner, or these internal controls may not be determined to be effective, which may result in additional material misstatements in our consolidated financial statements and may adversely affect investor confidence in our company and, as a result, the value of our common stock.

We are required, pursuant to Section 404 of the Sarbanes-Oxley Act, to furnish a report by management on, among other things, the effectiveness of our internal control over financial reporting.

Complying with Section 404 requires a rigorous compliance program as well as adequate time and resources. We may not be able to complete our internal control evaluation, testing and any required remediation in a timely fashion. Additionally, if we identify one or more material weaknesses in our internal control over financial reporting, we will not be able to assert that our internal controls are effective. A material weakness is a deficiency, or combination of deficiencies, in internal control over financial reporting such that there is a reasonable possibility that a material misstatement of the Company's annual or interim financial statements will not be prevented or detected on a timely basis. As of December 31, 2019, we have remediated the material weakness related to our internal controls over financial reporting that were determined to be ineffective as of December 31, 2018. As of December 31, 2018, we identified a material weakness related to the ineffective review and verification of internally prepared reports and analyses utilized in our financial statement closing process. The material weakness related to employee turnover resulting in a temporary lack of resources in financial reporting roles with the appropriate skills to perform effective review during our financial statement close process. This material weakness did not result in the restatement of prior quarterly or annually filed financial statements. During 2019, management conducted a remediation plan to address its material weakness, which included increasing the quality and level of resources with the accounting department and other enhancements and design improvements to our processes to improve the level of review of financial information.

Even though we remediated this material weakness as of December 31, 2019, we cannot be certain that other material weaknesses and control deficiencies will not be discovered in the future. If our efforts are not successful or other material weaknesses are identified in the future or we are not able to comply with the requirements of Section 404 in a timely manner, our reported financial results could be materially misstated, we would receive an adverse opinion regarding our internal controls over financial reporting from our independent registered public accounting firm, and we could be subject to investigations or sanctions by regulatory authorities, which would require additional financial and management resources, and the value of our common stock could decline. To the extent we identify future weaknesses or deficiencies, there could be material misstatements in our consolidated financial statements and we could fail to meet our financial reporting obligations. As a result, our ability to obtain additional financing, or obtain additional financing on favorable terms, could be materially and adversely affected which, in turn, could materially and adversely affect our business, our financial condition and the value of our common stock. If we are unable to assert that our internal control over financial reporting is effective in the future, or if our independent registered public accounting firm is unable to express an opinion or expresses an adverse opinion on the effectiveness of our internal controls in the future, investor confidence in the accuracy and completeness of our financial reports could be further eroded, which would have a material adverse effect on the price of our common stock.

Our reported financial results may be adversely affected by changes in accounting principles generally accepted in the U.S.

We prepare our financial statements in conformity with accounting principles generally accepted in the U.S. These accounting principles are subject to interpretation by the FASB and the SEC. A change in these policies or interpretations could have a significant effect on our reported financial results, may retroactively affect previously reported results, could cause unexpected financial reporting fluctuations, and may require us to make costly changes to our operational processes and accounting systems.

Our ability to use net operating loss carryforwards and tax credit carryforwards to offset future taxable income may be subject to certain limitations, and ownership changes may limit our ability to use our net operating losses and tax credits in the future.

Our ability to use our federal and state net operating loss carryforwards ("NOLs") to offset potential future taxable income and reduce related income taxes depends upon our generation of future taxable income. We cannot predict with certainty when, or whether, we will generate sufficient taxable income to use our NOLs.

Our federal NOLs generated in taxable years beginning prior to 2018 will continue to be governed by tax rules in effect prior to the Tax Cuts and Jobs Act (the "Tax Act"), with unused NOLs expiring 20 years after we report a tax loss. These NOLs could expire unused and be unavailable to offset future taxable income. We cannot predict if and to what extent various states will conform to the Tax Act, as modified by additional tax legislation enacted in 2020.

In addition, generally, if one or more stockholders or groups of stockholders who owns at least 5% of our stock increases its ownership by more than 50% over its lowest ownership percentage within a three-year testing period, an ownership change occurs (an "Ownership Change"). Our ability to utilize our NOLs and tax credit carryforwards to reduce taxes payable in a year we have taxable income may be limited if there has been an Ownership Change in our stock. Similar rules may apply under state tax laws. We may experience Ownership Changes in the future as a result of future stock sales or other changes in the ownership of our stock, some of which are beyond our control and, as a result, NOLs generated in taxable years beginning 2017 and before, may expire unused.

Any material limitation or expiration of our NOLs and tax credit carryforwards may harm our future net income by effectively increasing our future effective tax rate, which could result in a reduction in the market price of our common stock.

Comprehensive U.S. tax reform legislation could increase the tax burden on our orphan drug programs and adversely affect our business and financial condition.

In 2017, the U.S. government enacted the Tax Act that includes significant changes to the taxation of business entities, which was modified by additional federal tax legislation in 2020. These changes include, among others, (i) a permanent reduction to the corporate income tax rate, (ii) a partial limitation on the deductibility of business interest expense and net operating loss carryforwards, (iii) a shift of the U.S. taxation of multinational corporations from a tax on worldwide income to a territorial system (along with certain rules designed to prevent erosion of the U.S. income tax base) and (iv) a one-time tax on accumulated offshore earnings held in cash and illiquid assets, with the latter taxed at a lower rate. Further, the comprehensive tax legislation, among other things, reduces the orphan drug tax credit from 50% to 25% of qualifying expenditures. When and if we become profitable, this reduction in tax credits may result in an increased federal income tax burden on our orphan drug programs as it may cause us to pay federal income taxes earlier under the revised tax law than under the prior law and, despite being partially off-set by a reduction in the corporate tax rate from a top marginal rate of 35% to a flat rate of 21%, may increase our total federal tax liability attributable to such programs.

Notwithstanding the reduction in the corporate income tax rate, the overall impact of this comprehensive tax legislation resulted in an overall reduction in our deferred tax assets, and our business and financial condition could still be adversely affected as additional guidance and regulations are issued with respect to the original tax law change. In addition, it is uncertain if and to what extent various states will conform to this comprehensive tax legislation, and states may enact suspensions or limitations on the use of net operating losses and tax credits (including, without limitation, California legislation enacted in 2020 that suspends the use of California NOLs and limits the use of certain California tax credits for certain periods). Furthermore, proposals have been made in Congress (which have not yet been enacted) to make further changes to the federal income tax laws applicable to corporations that could have an adverse impact on us. The impact of the 2017 tax legislation on holders of our common stock is also uncertain and could be adverse. Investors should consult with their legal and tax advisors with respect to this comprehensive tax legislation and the potential tax consequences of investing in or holding our common stock, including potential additional proposed federal tax law changes.

Our facilities in California are located near an earthquake fault, and an earthquake or other types of natural disasters, catastrophic events or resource shortages could disrupt our operations and adversely affect our results.

All our facilities and our important documents and records, such as hard and electronic copies of our laboratory books and records for our drug candidates and compounds and our electronic business records, are located in our corporate headquarters at a single location in South San Francisco, California near active earthquake zones. If a natural disaster, such as an earthquake, fire or flood, a catastrophic event such as a disease pandemic or terrorist attack, or a localized extended outage of critical utilities or transportation systems occurs, we could experience a significant business interruption. Our partners and other third parties on which we rely may also be subject to business interruptions from such events. In addition, California from time to time has experienced shortages of water, electric power and natural gas. Future shortages and conservation measures could disrupt our operations and cause expense, thus adversely affecting our business and financial results.

We expect that our stock price will fluctuate significantly, and you may not be able to resell your shares at or above your investment price.

The stock market, particularly in recent years, has experienced significant volatility, particularly with respect to pharmaceutical, biotechnology and other life sciences company stocks, which often does not relate to the operating performance of the companies represented by the stock. Factors that could cause volatility in the market price of our common stock include, but are not limited to:

- announcements concerning any of the clinical trials for our drug candidates (including, but not limited to, the timing of initiation or completion of such trials and the results of such trials, and delays or discontinuations of such trials, including delays resulting from slower than expected or suspended patient enrollment or discontinuations resulting from a failure to meet pre-defined clinical end points);
- announcements concerning our strategic alliances;
- failure or delays in entering additional drug candidates into clinical trials;
- failure or discontinuation of any of our research programs;
- issuance of new or changed securities analysts' reports or recommendations;
- failure or delay in establishing new strategic alliances, or the terms of those alliances;
- market conditions in the pharmaceutical, biotechnology and other healthcare-related sectors;
- actual or anticipated fluctuations in our quarterly financial and operating results;
- developments or disputes concerning our intellectual property or other proprietary rights;
- introduction of technological innovations or new products by us or our competitors;
- issues in manufacturing, packaging, labeling and distribution of our drug candidates or drugs;
- market acceptance of our drugs;
- third-party healthcare coverage and reimbursement policies;
- FDA or other U.S. or foreign regulatory actions affecting us or our industry;
- litigation or public concern about the safety of our drug candidates or drugs;
- additions or departures of key personnel;
- substantial sales of our common stock by our existing stockholders, whether or not related to our performance;

- automated trading activity by algorithmic and high-frequency trading programs;
- volatility in the stock prices of other companies in our industry or in the stock market generally; and
- other factors described in this “Risk Factors” section.

These and other external factors may cause the market price and demand for our common stock to fluctuate substantially, which may limit or prevent investors from readily selling their shares of common stock and may otherwise negatively affect the liquidity of our common stock. In addition, when the market price of a stock has been volatile, holders of that stock have instituted securities class action litigation against the company that issued the stock. If any of our stockholders brought a lawsuit against us, we could incur substantial costs defending the lawsuit. Such a lawsuit could also divert our management’s time and attention.

If securities or industry analysts publish inaccurate or unfavorable research about our business, our stock price and trading volume could decline.

The trading market for our common stock depends in part on the research and reports that securities or industry analysts publish about us or our business. If one or more of the analysts who covers us downgrades our stock or publishes inaccurate or unfavorable research about our business, our stock price may decline. If one or more of these analysts ceases coverage of our company or fails to publish reports on us regularly, demand for our stock could decrease, which might cause our stock price and trading volume to decline.

In addition, as required by the revenue recognition standard, ASC 606, we disclose the aggregate unsatisfied amount of transaction price allocated to performance obligations as of the end of the reporting period. It is possible that analysts and investors could misinterpret our disclosure or that the terms of our research or license agreements or other circumstances could cause our methods for preparing this disclosure to differ significantly from others, which could lead to inaccurate or unfavorable forecasts by analysts and investors.

Regardless of accuracy, unfavorable interpretations of our financial information and other public disclosures could have a negative impact on our stock price. If our financial performance fails to meet analyst estimates, for any of the reasons discussed above or otherwise, or one or more of the analysts who cover us downgrade our common stock or change their opinion of our common stock, our stock price would likely decline.

If the ownership of our common stock continues to be highly concentrated, it may prevent you and other stockholders from influencing significant corporate decisions and may result in conflicts of interest that could cause our stock price to decline.

Our executive officers, directors and their affiliates beneficially own or control some of the outstanding shares of our common stock. Accordingly, these executive officers, directors and their affiliates, acting as a group, may have substantial influence over the outcome of corporate actions requiring stockholder approval, including the election of directors, any merger, consolidation or sale of all or substantially all our assets or any other significant corporate transactions. These stockholders may also delay or prevent a change of control of us, even if such a change of control would benefit our other stockholders. The significant concentration of stock ownership may adversely affect the trading price of our common stock due to investors’ perception that conflicts of interest may exist or arise.

Volatility in the stock prices of other companies may contribute to volatility in our stock price.

The stock market in general, and the Nasdaq stock exchanges and the market for technology companies in particular, have experienced significant price and volume fluctuations that have often been unrelated or disproportionate to the operating performance of those companies. Further, there has been particular volatility in the market prices of securities of early stage and clinical stage life sciences companies. These broad market and industry factors may seriously harm the market price of our common stock, regardless of our operating performance. In the past, following periods of volatility in the market price of a company’s securities, securities class action litigation has often been instituted. A securities class action suit against us could result in substantial costs, potential liabilities and the diversion of management’s attention and resources and could harm our reputation and business.

Our common stock is not heavily traded and there may not be an active, liquid trading market for our common stock.

There is no guarantee that an active trading market for our common stock will be maintained on Nasdaq, or that the volume of trading will be sufficient to allow for timely trades. Investors may not be able to sell their shares quickly or at the latest market price if trading in our stock is not active or if trading volume is limited. In addition, if trading volume in our common stock is limited, trades of relatively small numbers of shares may have a disproportionate effect on the market price of our common stock.

Our stockholders will experience substantial additional dilution if outstanding equity awards are exercised or settled for common stock.

The exercise of stock options or settlement of equity awards for common stock would be substantially dilutive to the outstanding shares of common stock. Any dilution or potential dilution may cause our stockholders to sell their shares, which would contribute to a downward movement in the market price of our common stock.

Evolving regulation of corporate governance and public disclosure may result in additional expenses, use of resources and continuing uncertainty.

We regularly evaluate and monitor developments with respect to new and proposed laws, regulations and standards. For example, we spend significant financial and human resources to document and test the adequacy of our internal control over financial reporting to comply with the internal control requirements the Sarbanes-Oxley Act.

We intend to maintain high standards of corporate governance and public disclosure and to invest the resources necessary to comply with evolving laws, regulations and standards. This investment may result in increased general and administrative expenses and a diversion of management time and attention from revenue-generating activities to compliance activities.

Changing laws, regulations and standards relating to corporate governance and public disclosure create uncertainty for public companies. In many cases, changes lack specificity and compliance with these changes may evolve over time as new guidance is provided by regulatory and governing bodies. We cannot accurately predict or estimate the amount or timing of the additional effort or expense we may incur complying with changes in these laws, regulations and standards. Therefore, we can provide no assurance as to conclusions of management or by our independent registered public accounting firm with respect to the effectiveness of our internal control over financial reporting in the future. If our efforts to comply with new or changed laws, regulations and standards differ from the activities intended by regulatory or governing bodies, due to ambiguities related to practice or otherwise, regulatory authorities may initiate legal proceedings against us, which could be costly and time-consuming, and our reputation and business may be harmed.

We have never paid dividends on our capital stock, and we do not anticipate paying any cash dividends in the foreseeable future.

We have paid no cash dividends on any of our classes of capital stock to date and we currently intend to retain our future earnings, if any, to fund the development and growth of our businesses. In addition, the terms of existing or any future debts may preclude us from paying these dividends.

A rating agency may not rate the notes or may assign a rating that is lower than expected.

We do not intend to seek to have the 2026 Notes rated by any rating agency. However, if one or more rating agencies rates the notes and assigns a rating that is lower than the rating that investors expect, or reduces their rating in the future, then the trading price of our common stock and the 2026 Notes could significantly decline.

In addition, market perceptions of our creditworthiness will directly affect the trading price of our common stock and the 2026 Notes. Accordingly, if a ratings agency rates any of our indebtedness in the future or downgrades or withdraws the rating, or puts us on credit watch, then the trading price of our common stock and the 2026 Notes will likely decline.

Provisions in our charter documents and under Delaware law could discourage a takeover that stockholders may consider favorable and may lead to entrenchment of management.

Our amended and restated certificate of incorporation and amended and restated bylaws contain provisions that may discourage, delay or prevent a merger, acquisition or other change in control of us that stockholders may consider favorable, including transactions in which you might otherwise receive a premium for your shares. These provisions also could limit the price that investors might be willing to pay in the future for shares of our common stock, thereby depressing the market price of our common stock. In addition, because our board of directors is responsible for appointing the members of our management team, these provisions may frustrate or prevent any attempts by our stockholders to replace or remove our current management by making it more difficult for stockholders to replace members of our board of directors. Among other things, these provisions:

- establish a classified board of directors with three-year staggered terms, which may delay the ability of stockholders to change the membership of a majority of our board of directors;
- eliminate cumulative voting in the election of directors, which limits the ability of minority stockholders to elect director candidates;
- establish the exclusive right of our board of directors to elect a director to fill a vacancy created by the expansion of the board of directors or the resignation, death or removal of a director, which prevents stockholders from being able to fill vacancies on our board of directors;

- prohibit removal of directors without cause;
- authorize our board of directors to issue preferred stock and to determine the price and other terms of those shares, including preferences and voting rights, without stockholder approval, which could be used to significantly dilute the ownership of a hostile acquirer;
- authorize our board of directors to alter our bylaws without obtaining stockholder approval;
- require the approval of at least two-thirds of the shares entitled to vote at an election of directors to adopt, amend or repeal our bylaws or repeal the provisions of our amended and restated certificate of incorporation regarding the election and removal of directors;
- prohibit stockholder action by written consent, which forces stockholder action to be taken at an annual or special meeting of our stockholders;
- require that a special meeting of stockholders be called only by the chairman of the board of directors, the chief executive officer, the president or the board of directors, which may delay the ability of our stockholders to force consideration of a proposal or to take action, including the removal of directors; and
- provide for advance notice procedures that stockholders must comply with in order to nominate candidates to our board of directors or to propose matters to be acted upon at a stockholders' meeting, which may discourage or deter a potential acquirer from conducting a solicitation of proxies to elect the acquirer's own slate of directors or otherwise attempting to obtain control of us.

We are also subject to the anti-takeover provisions contained in Section 203 of the Delaware General Corporation Law. Under Section 203, a corporation may not, in general, engage in a business combination with any holder of 15% or more of its capital stock unless the holder has held the stock for three years or, among other exceptions, the board of directors has approved the transaction. These provisions could discourage potential acquisition proposals and could delay or prevent a change in control transaction. They could also have the effect of discouraging others from making tender offers for our common stock, including transactions that may be in your best interests. These provisions may also prevent changes in our management or limit the price that investors are willing to pay for our stock.

Claims for indemnification by our directors and officers may reduce our available funds to satisfy successful third-party claims against us and may reduce the amount of money available to us.

Our amended and restated certificate of incorporation and amended and restated bylaws provide that we will indemnify our directors and officers, in each case to the fullest extent permitted by Delaware law.

In addition, as permitted by Section 145 of the Delaware General Corporation Law, our amended and restated bylaws and our indemnification agreements that we have entered into with our directors and officers provide that:

- we will indemnify our directors and officers for serving us in those capacities or for serving other business enterprises at our request, to the fullest extent permitted by Delaware law. Delaware law provides that a corporation may indemnify such person if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the registrant and, with respect to any criminal proceeding, had no reasonable cause to believe such person's conduct was unlawful;
- we may, in our discretion, indemnify employees and agents in those circumstances where indemnification is permitted by applicable law;
- we are required to advance expenses, as incurred, to our directors and officers in connection with defending a proceeding, except that such directors or officers shall undertake to repay such advances if it is ultimately determined that such person is not entitled to indemnification;
- we will not be obligated pursuant to our amended and restated bylaws to indemnify a person with respect to proceedings initiated by that person against us or our other indemnitees, except with respect to proceedings authorized by our board of directors or brought to enforce a right to indemnification;
- the rights conferred in our amended and restated bylaws are not exclusive, and we are authorized to enter into indemnification agreements with our directors, officers, employees and agents and to obtain insurance to indemnify such persons; and
- we may not retroactively amend our amended and restated bylaw provisions to reduce our indemnification obligations to directors, officers, employees and agents.

ITEM 1B. UNRESOLVED STAFF COMMENTS

None.

ITEM 2. PROPERTIES

Our material facilities consist of 234,892 square feet of leased office and laboratory space at 350 Oyster Point, South San Francisco, California. Our lease over the aforementioned property expires in 2034.

We believe that these facilities are suitable and adequate for our current needs.

ITEM 3. LEGAL PROCEEDINGS

We are not currently subject to any material legal proceedings.

ITEM 4. MINE SAFETY DISCLOSURES

Not applicable.

PART II

ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES

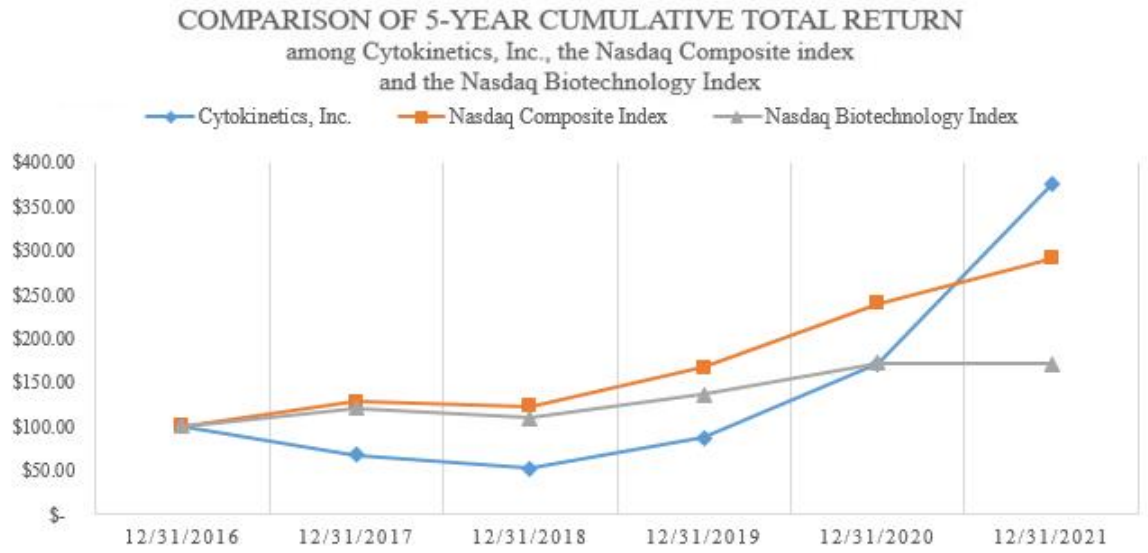
Market information for common stock

Our common stock is listed on the Nasdaq Global Select Market under the symbol "CYTK." On February 22, 2022, the last reported sale price for our common stock was $33.69 per share. We currently expect to retain future earnings, if any, for use in the operation and expansion of our business and have not paid and do not in the foreseeable future anticipate paying any cash dividends.

Performance Graph

The comparisons in the table below are required by the SEC and are not intended to forecast or be indicative of possible future performance of our common stock. This graph shall not be deemed "soliciting material" or be deemed "filed" for purposes of Section 18 of the Securities Exchange Act of 1934, as amended ("Exchange Act"), or otherwise subject to the liabilities under that Section, and shall not be deemed to be incorporated by reference into any of our filings under the Securities Act, whether made before or after the date hereof and irrespective of any general incorporation language in any such filing, except to the extent we specifically incorporate it by reference into such filing.

The following graph compares cumulative total return of our common stock with the cumulative total return of (i) The NASDAQ Composite Index, and (ii) The NASDAQ Biotechnology Index. The graph assumes (a) $100 was invested on December 31, 2016 in each of our common stock, the stocks comprising the NASDAQ Composite Index and the stocks comprising the NASDAQ Biotechnology Index, and (b) the reinvestment of dividends into shares of common stock; however, no dividends have been declared on our common stock to date.



$100 investment in stock or index	12/31/2016	12/31/2017	12/31/2018	12/31/2019	12/31/2020	12/31/2021
Cytokinetics, Inc.	$ 100.00	$ 67.08	$ 52.02	$ 87.33	$ 171.03	$ 375.14
Nasdaq Composite Index	100.00	128.24	123.26	166.68	239.42	290.63
Nasdaq Biotechnology Index	100.00	121.06	109.77	136.56	171.64	170.55

Holders of Record

As of February 22, 2022, we had 50 holders of record of common stock. The number of holders of record is based upon the actual number of holders registered as of such date and does not include holders of shares in "street name" or persons, partnerships, associates, corporations or other entities in security position listings maintained by depositories.

Dividends

We have never declared or paid, and do not anticipate declaring or paying in the foreseeable future, any cash dividends on our capital stock. Any future determination to declare cash dividends will be made at the discretion of our board of directors, subject to applicable laws, and will depend on our financial condition, results of operations, capital requirements, general business conditions and other factors that our board of directors may deem relevant.

Equity Compensation Information

Information regarding our equity compensation plans and the securities authorized for issuance thereunder is set forth in Part III, Item 12.

Unregistered Sales of Equity Securities

On December 20, 2021, we entered into common stock purchase agreements with each of the RTW Investors. These common stock purchase agreements provided for the sale and issuance of an aggregate of 511,182 shares of common stock of Cytokinetics at a price per share of $39.125 and an aggregate purchase price of $20.0 million. The closing occurred on December 20, 2021.

Issuer Purchases of Equity Securities

None.

ITEM 6. SELECTED FINANCIAL DATA

(*Not required)*

ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

This discussion and analysis should be read in conjunction with our financial statements and accompanying notes included elsewhere in this report. Operating results are not necessarily indicative of results that may occur in future periods.

Overview

We are a late-stage biopharmaceutical company focused on discovering, developing and commercializing first-in-class muscle activators and next-in-class muscle inhibitors as potential treatments for debilitating diseases in which muscle performance is compromised and/or declining. We have discovered and are developing muscle-directed investigational medicines that may potentially improve the health span of people with devastating cardiovascular and neuromuscular diseases of impaired muscle function. Our research and development activities relating to the biology of muscle function have evolved from our knowledge and expertise regarding the cytoskeleton, a complex biological infrastructure that plays a fundamental role within every human cell. As a leader in muscle biology and the mechanics of muscle performance, we are developing small molecule drug candidates specifically engineered to impact muscle function and contractility.

Our clinical-stage drug candidates are: omecamtiv mecarbil, a novel cardiac myosin activator, CK-136, a novel cardiac troponin activator, reldesemtiv, a novel fast skeletal muscle troponin activator, aficamten, a novel cardiac myosin inhibitor, and CK-271, our second novel cardiac myosin inhibitor.

For further information regarding our business, refer to Part I, Item 1 (Business) of this Annual Report on Form 10-K.

Critical Accounting Policies and Significant Estimates

Our discussion and analysis of our financial condition and results of operations are based on our financial statements, which have been prepared in accordance with accounting principles generally accepted in the United States. The preparation of these financial statements requires us to make estimates and judgments that affect the reported amounts of assets, liabilities and expenses and related disclosure of contingent assets and liabilities. We review our estimates on an ongoing basis. We base our estimates on historical experience and on various other assumptions that we believe to be reasonable under the circumstances. Actual results may differ from these estimates under different assumptions or conditions. While our significant accounting policies are described in more detail in the notes to our financial statements included in this Annual Report on Form 10-K, we believe the following accounting policies to be critical to the judgments and estimates used in the preparation of our financial statements.

Revenue Recognition

We recognize revenue when we transfer promised goods or services to customers in an amount that reflects the consideration for those goods or services. To recognize revenue from a contract with a customer, we:

(i) identify our contracts with our customers;
(ii) identify our distinct performance obligations in each contract;
(iii) determine the transaction price of each contract;
(iv) allocate the transaction price to the performance obligations; and
(v) recognize revenue as we satisfy our performance obligations.

At contract inception, we assess the goods or services promised within each contract and assess whether each promised good or service is distinct and determine those that are performance obligations. We then recognize as revenue the amount of the transaction price that is allocated to the respective performance obligation when (or as) the performance obligation is satisfied.

Collaborative Arrangements

We enter into collaborative arrangements with partners that typically include payment to us for one of more of the following: (i) license fees; (ii) milestone payments related to the achievement of developmental, regulatory, or commercial goals; and (iii) royalties on net sales of licensed products. Each of these payments results in collaboration or other revenues. Where a portion of non-refundable up-front fees or other payments received are allocated to continuing performance obligations under the terms of a collaborative arrangement, they are recorded as deferred revenue and recognized as revenue when (or as) the underlying performance obligation is satisfied.

As part of the accounting for these arrangements, we must develop estimates and assumptions that require judgment to determine the underlying stand-alone selling price for each performance obligation which determines how the transaction price is allocated among the performance obligation. The stand-alone selling price may include such items as, forecasted revenues, development timelines, reimbursement rates for personnel costs, discount rates and probabilities of technical and regulatory success, to determine the transaction price to allocate to each performance obligation.

For our collaboration agreements that include more than one performance obligation, such as a license combined with a commitment to perform research and development services, we make judgments to assess the nature of the combined performance obligation to determine whether the combined performance obligation is satisfied over time or at a point in time and, if over time, the appropriate method of measuring progress for purposes of recognizing revenue from non-refundable, up-front fees. We evaluate our progress each reporting period and, if necessary, adjust the measure of a performance obligation and related revenue recognition.

License Fees: If a license to our intellectual property is determined to be distinct from the other performance obligations identified in the arrangement, we recognize revenues from non-refundable, up-front fees allocated to the license when the license is transferred to the licensee and the licensee is able to use and benefit from the license. For licenses that are bundled with other promises, we utilize judgment to assess the nature of the combined performance obligation to determine whether the combined performance obligation is satisfied over time or at a point in time and, if over time, the appropriate method of measuring progress for purposes of recognizing revenue from non-refundable, up-front license fees. We evaluate the measure of progress each reporting period and, if necessary, adjust the measure of performance and related revenue recognition.

Milestone Payments: We use judgement to determine whether a milestone is considered probable of being reached. Using the most likely amount method, we include the value of a milestone payment in the consideration for a contract at inception if we then conclude achieving the milestone is more likely than not. Otherwise, we exclude the value of a milestone payment from contract consideration at inception and recognize revenue for a milestone at a later date, when we judge that it is more likely than not that the milestone will be achieved. If we conclude it is probable that a significant revenue reversal would not occur, the associated milestone is included in the transaction price. We then allocate the transaction price to each performance obligation on a relative stand-alone selling price basis, for which we recognize revenue as or when the performance obligations under the contract are satisfied. At the end of each subsequent reporting period, we re-evaluate the probability of achievement of such milestones and any related constraint, and if necessary, adjust our estimate of the overall transaction price. Any such adjustments are recorded on a cumulative catch-up basis, which would affect license, collaboration and other revenues and earnings in the period of adjustment.

Royalties: For contracts that include sales-based royalties, we recognize revenue at the later of (i) when the related sales occur, or (ii) when the performance obligation to which some or all of the royalty has been allocated has been satisfied. To date, we have not recognized any royalty revenues resulting from contracts.

Research and Development Cost Reimbursements: Our now terminated collaboration agreements with Amgen and Astellas, namely the Amgen Agreement and the Astellas OSSA Agreement, included promises of research and development services. We have determined that these services collectively are distinct from the licenses provided to Astellas and Amgen under such agreements, and as such, these promises are accounted for as a separate performance obligation to be recognized over time. We recognize revenue for these services as the performance obligations are satisfied, which we estimate using internal development costs incurred.

Accrued Research and Development Expenditures

A substantial portion of our preclinical studies and all of our clinical trials have been performed by third-party CROs and other vendors and our accruals for expenses for preclinical studies and clinical trials may be significant. For preclinical studies, the significant factors used in estimating accruals include the percentage of work completed to date and contract milestones achieved. For clinical trial expenses, the significant factors used in estimating accruals include the number of patients enrolled, duration of enrollment, milestones achieved and percentage of work completed to date. We monitor patient enrollment levels and related activities to the extent practicable through internal reviews, correspondence and status meetings with CROs, and review of contractual terms. We depend on the timeliness and accuracy of data provided by our CROs and other vendors to accrue expenses. If we receive and rely on incomplete or inaccurate data, accruals and expenses may be too high or too low at a given point in time and corresponding adjustments to accruals and expenses would be made in future periods when the actual expense becomes known.

Revenue Participation Right Purchase Agreements

We have entered into certain revenue participation right purchase agreements with certain investors, pursuant to which such investors purchased rights to royalties from certain revenue streams in exchange for consideration. We typically account for such agreements as debt to be amortized under the effective interest rate method over the life of the related royalty stream, when we have continuing involvement with the underlying R&D. We typically account for such agreements as deferred income to be amortized under the units-of-revenue method, when there is no continuing involvement with the underlying R&D.

Revenue participation right purchase agreements are recognized using significant unobservable inputs. These inputs are derived using internal management estimates developed based on third party data and reflect management’s judgements, current market conditions surrounding competing products, and forecasts. We will periodically assess the amount and timing of expected royalty payments and account for any changes in such estimates on a prospective basis.

Results of Operations

A discussion of our results of operations for the year ended December 31, 2019 can be found in Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations in our 2020 Annual Report.

Revenues

Our revenues since inception were primarily from our strategic alliances. Under our now terminated collaboration agreements with Amgen and Astellas, namely the Amgen Agreement and the Astellas OSSA Agreement, we received payments including upfront license fees, reimbursements of internal costs of certain FTEs and costs to support research and development programs, and milestone payments. We have not generated any revenue from commercial product sales to date.

2021 license revenues were the result of a series of transactions we entered into with RTW Royalty Holdings and Ji Xing (together, the "2021 RTW Transactions"). 2020 license revenues were the result of a series of transactions we entered into with RTW Royalty Holdings and Ji Xing (together, the "2020 RTW Transactions").

We may also be entitled to additional milestone payments and other contingent payments upon the occurrence of specific events. We expect that our revenue will continue to fluctuate in future periods.

Revenues in 2021, 2020 and 2019 were as follows (in thousands):

	Years Ended December 31,			Change	
	2021	2020	2019	2021-2020	2020-2019
	(In millions)				
Research and development revenues	$ 10.6	$ 16.5	$ 26.9	$ (5.9)	$ (10.4)
License revenues	54.9	36.5	—	18.4	36.5
Milestone revenues	5.0	2.8	—	2.2	2.8
Total revenues	$ 70.5	$ 55.8	$ 26.9	$ 14.7	$ 28.9

Research and development revenues in 2021 and 2020 were primarily from Astellas and Amgen under the Astellas OSSA Agreement, the Astellas FSRA Agreement and the Amgen Agreement.

Research and development revenues from Astellas were $3.2 million and $6.6 million in 2021 and 2020, respectively, for reimbursements under the Astellas FSRA Agreement and the Astellas OSSA Agreement in 2021 and the Astellas OSSA Agreement in 2020.

Research and development revenues from Amgen were $7.3 million and $10.0 million in 2021 and 2020, respectively, for reimbursements.

License revenues for 2021 were the result of the Ji Xing OM License Agreement, pursuant to which we granted to Ji Xing an exclusive license to develop and commercialize omecamtiv mecarbil in China and Taiwan. License revenue was $54.9 million and consisted of the residual allocation of consideration from the 2021 RTW Transactions.

License revenues for 2020 were the result of the Ji Xing Aficamten License Agreement, pursuant to which we granted to Ji Xing an exclusive license to develop and commercialize aficamten in China and Taiwan. License revenue was $36.5 million and consisted of the residual allocation of consideration from the 2020 RTW Transactions. In 2021, we recognized a $5.0 million in milestone revenues from Ji Xing under the Ji Xing Aficamten License Agreement for having achieved initiation of a phase 3 clinical trial for aficamten in obstructive HCM. Although our contractual right to payment has not yet arisen under the Ji Xing Aficamten Agreement, we determined recognition of the milestone in accordance with ASC 606 in 2021 was appropriate based on our expected initiation of a phase 3 clinical trial of aficamten in oHCM. Milestone revenues from 2020 were $2.8 million and consisted primarily of the milestone earned from Ji Xing for the first patient dosed in Cohort 2 of REDWOOD-HCM.

We do not expect future revenues from Amgen or Astellas under the Amgen Agreement and the Astellas OSSA Agreement due to the termination thereof in 2021. Co-funding under the Astellas FSRA Agreement for the conduct of COURAGE-ALS will continue until the $12.0 million cap is reached.

Research and development expenses

We incur research and development expenses associated with both partnered and our own research activities.

Research and development expenses related to any development we elect to fund consist primarily of employee compensation, supplies and materials, costs for consultants and contract research and manufacturing, facilities costs and depreciation of equipment.

Research and development expenses by program for 2021, 2020 and 2019 were as follows (in thousands):

	Years Ended December 31,			Change	
	2021	2020	2019	2021-2020	2020-2019
	(In millions)				
Cardiac muscle contractility	$ 102.5	$ 53.0	$ 45.8	$ 49.5	$ 7.2
Skeletal muscle contractility	27.9	17.1	14.6	10.8	2.5
All other research programs	29.5	26.9	25.7	2.6	1.2
Total research and development expenses	$ 159.9	$ 97.0	$ 86.1	$ 62.9	$ 10.9

Research and development expenses increased to $159.9 million in 2021 from $97.0 million in 2020 primarily due to higher expenses for our clinical development activities for our cardiac muscle inhibitor programs, for COURAGE-ALS, for facilities expense due to the Oyster Point Lease recorded in 2021, and for regulatory filing costs. In addition, we incurred transition costs related to the termination of our collaboration with Amgen and our purchase from Amgen of approximately $14.6 million of materials including manufactured quantities of the active pharmaceutical ingredient for omecamtiv mecarbil.

We continue to develop reldesemtiv to treat ALS and we recently announced that COURAGE-ALS, the Phase 3 clinical trial of reldesemtiv in patients with ALS, is open to enrollment. We may also continue to develop reldesemtiv to treat SMA. Under the Astellas FSRA Agreement, Astellas has agreed to pay one-third of the out-of-pocket clinical development costs which may be incurred in connection with Cytokinetics' Phase 3 clinical trial, COURAGE-ALS, of reldesemtiv in ALS up to a maximum contribution by Astellas of $12.0 million.

Under our strategic alliance with Amgen, Amgen was responsible for the development of omecamtiv mecarbil until the effective termination of the Amgen Agreement, which occurred on May 20, 2021. Following the effective termination of the Amgen Agreement, we have continued the Phase 3 development of omecamtiv mecarbil for the potential treatment of heart failure, at our own cost. We expect to continue the development of aficamten to assess the potential of aficamten to improve exercise capacity and relieve symptoms in patients with hyperdynamic ventricular contraction due to HCM. Under our strategic alliances with Ji Xing, Ji Xing is responsible for the development of aficamten and omecamtiv mecarbil in China and Taiwan, and we may be entitled to receive milestone payments upon the achievement of certain development and commercial milestones.

Clinical development timelines, the likelihood of success and total completion costs vary significantly for each drug candidate and are difficult to estimate. We anticipate that we will determine on an ongoing basis which research and development programs to pursue and how much funding to direct to each program, taking into account the potential scientific and clinical success of each drug candidate. The lengthy process of seeking regulatory approvals and subsequent compliance with applicable regulations requires the expenditure of substantial resources. Any failure by us to obtain and maintain, or any delay in obtaining, regulatory approvals could cause our research and development expenditures to increase and, in turn, could have a material adverse effect on our results of operations.

General and administrative expenses

General and administrative expenses consist primarily of compensation for employees in executive and administrative functions, including, but not limited to, finance, human resources, legal, business and commercial development and strategic planning. Other significant costs include facilities costs, consulting costs and professional fees for accounting and legal services, including legal services associated with obtaining and maintaining patents and regulatory compliance.

General and administrative expenses by program for 2021, 2020 and 2019 were as follows (in thousands):

	Years Ended December 31,			Change	
	2021	2020	2019	2021-2020	2020-2019
	(In millions)				
Total general and administrative expenses	$ 96.8	$ 52.8	$ 39.6	$ 44.0	$ 13.2

General and administrative expenses increased to $96.8 million in 2021 from $52.8 million in 2020, primarily due to higher outside service spend in anticipation of the potential commercial launch of omecamtiv mecarbil, an increase in personnel related costs including stock-based compensation and facilities expense due to the Oyster Point Lease recorded in 2021.

We expect that general and administrative expenses will fluctuate in the future, depending in part on the timing of and investments in commercial readiness.

Interest expense

Interest expense for 2021, 2020 and 2019 were as follows (in thousands):

	Years Ended December 31,			Change	
	2021	2020	2019	2021-2020	2020-2019
	(In millions)				
Term loan	$ 4.8	$ 4.9	$ 5.2	$ (0.1)	$ (0.3)
Convertible notes	11.5	10.8	1.4	0.7	9.4
Warrants	—	0.2	—	(0.2)	0.2
Other	0.1	0.1	—	—	0.1
Total interest expense	$ 16.4	$ 16.0	$ 6.6	$ 0.4	$ 9.4

Interest expense in 2021 and 2020 consists of interest expense related to the Term Loan Agreement and respective warrants by and among the Company, Oxford and Silicon Valley Bank and interest expense related to the 2026 Notes. Approximately half of the 2026 Notes' interest expense is due to the amortization of the discount associated with the equity component of the 2026 Notes.

Non-cash interest expense on liability related to sale of future royalties

Non-cash interest expense comprised of the RPI OM Liability under the RP OM RPA related to sale of future royalties in 2021, 2020 and 2019 results from accretion of the liability related to sale of future royalties. In 2021, we updated our analyses to reflect our current assumptions resulting from ongoing market research in the U.S. and to reflect other adjustments in connection with our anticipated commercialization. Our estimates regarding the amount of future royalty payments decreased and the time periods within which we anticipated that such payments will be due changed. Each of these adjustments is accounted for on a prospective basis in our liability calculation and resulted in a decline in our imputed interest rate and noncash interest expenses from 15% and $22.7 million in 2020 to 10% and $12.9 million in 2021, respectively. In 2021, the change in estimate had no impact on revenue and reduced the net loss by $11.5 million. The change in accounting estimate reduced the net loss per share by $0.15 in 2021. We review our assumptions on a quarterly basis and our estimates may change in the future as we refine and reassess our assumptions.

Non-cash interest expense on liability related to the RP OM RPA for 2021, 2020 and 2019 were as follows (in thousands):

	Years Ended December 31,			Change	
	2021	2020	2019	2021-2020	2020-2019
	(In millions)				
Non-cash interest expense recognized	$ 12.9	$ 22.7	$ 20.7	$ (9.8)	$ 2.0

Interest and Other Income, net

Interest and other income, net for 2021, 2020 and 2019 consisted primarily of interest income generated from our cash, cash equivalents and investments.

Liquidity and Capital Resources

Our cash, cash equivalents and investments and a summary of our borrowings and working capital is summarized as follows:

	December 31, 2021	December 31, 2020
	(In millions)	
Financial assets:		
Cash and cash equivalents	$ 112.7	$ 83.0
Short-term investments	359.0	381.1
Total cash, cash equivalents and marketable securities	$ 471.7	$ 464.1
Borrowings:		
Term loan, net	$ 47.4	$ 46.2
Convertible notes, net	95.5	89.5
Total borrowings	$ 142.9	$ 135.7
Working capital:		
Current assets	$ 535.7	$ 474.2
Current liabilities	71.9	31.2
Working capital	$ 463.8	$ 443.0

The following table shows a summary of our cash flows for the periods set forth below:

	Years Ended December 31,		
	2021	2020	2019
	(In millions)		
Net cash (used in) provided by operating activities	$ (142.5)	$ 8.9	$ (90.9)
Net cash used in investing activities	(147.8)	(196.5)	(74.7)
Net cash provided by financing activities	320.0	234.1	159.8
	$ 29.7	$ 46.5	$ (5.8)

Sources and Uses of Cash

We have funded our operations and capital expenditures with proceeds primarily from private and public sales of our equity securities, a royalty monetization agreement, strategic alliances, long-term debt, other financings and interest on investments. We have generated significant operating losses since our inception. Our expenditures are primarily related to research and development activities.

Net cash used in operating activities of $142.5 million for 2021 which include a net loss of $215.3 million was largely due to ongoing research and development activities, general and administrative expenses to support those activities, and operating lease liability related to the existing and new leases. Net loss for 2021 included, among other items: non-cash stock-based compensation, non-cash interest expense related to sale of future royalties and non-cash interest expense related to debt.

Net cash used in investing activities of $147.8 million in 2021 was primarily due to purchases of investments and property and equipment offset by proceeds from maturity of investments.

Net cash provided by financing activities of $320.0 million in 2021 was primarily due to $296.9 million of proceeds related to issuance of common stock in an underwritten public offering and stock-based activities.

2021 Ji Xing and RTW Transactions

On December 20, 2021, we entered into the Ji Xing OM License Agreement, pursuant to which we granted to Ji Xing an exclusive license to develop and commercialize omecamtiv mecarbil in China and Taiwan. Under the terms of the Ji Xing OM License Agreement, we are the beneficiary of a nonrefundable $50.0 million payment obligation from Ji Xing comprised of a $40.0 million payment as consideration for the rights granted by us to Ji Xing and $10.0 million attributable to our having submitted to FDA an NDA for omecamtiv mecarbil. We may be eligible to receive from Ji Xing additional payments totaling up to $330.0 million for the achievement of certain commercial milestone events in connection to omecamtiv mecarbil. In addition, Ji Xing will pay us tiered royalties in the mid-teens to the low twenties range on the net sales of pharmaceutical products containing omecamtiv mecarbil in China and Taiwan, subject to certain reductions for generic competition, patent expiration and payments for licenses to third party patents. The Ji Xing OM License Agreement, unless terminated earlier, will continue on a market-by-market basis until expiration of the relevant royalty term.

In addition to the Ji Xing OM License Agreement, we entered into common stock purchase agreements with each of the RTW Investors, pursuant to which we sold and issued an aggregate of 0.5 million shares of our common stock at a price per share of $39.125 and an aggregate purchase price of $20.0 million.

2020 Ji Xing and RTW Transactions

On July 14, 2020, we entered into a series of agreements comprised of the Ji Xing Aficamten License Agreement, three common stock purchase agreements for the sale of Cytokinetics common stock to the RTW Investors (as defined below), an agreement to sell to RTW Royalty Holdings Designated Activity Company (“RTW Royalty Holdings”) our interest in certain future royalties on net sales of products containing the compound mavacamten that is being developed by Bristol-Myers Squibb Company (formerly by MyoKardia, Inc.) and a funding agreement pursuant to which we had the option to sell to RTW Royalty Holdings a revenue interest in certain of our future sales of aficamten, upon the achievement of certain clinical trial milestones, in exchange for future royalty payments as further discussed below. As a result, we have or expect to receive a combination of committed funding and sale proceeds from the RTW Investors, RTW Royalty Holdings and Ji Xing.

Under the Ji Xing Aficamten License Agreement, we granted to Ji Xing an exclusive license to develop and commercialize aficamten in China and Taiwan. Under the terms of the Ji Xing Aficamten License Agreement, we received from Ji Xing an upfront payment of $25.0 million. We may be eligible to receive from Ji Xing milestone payments totaling up to $200.0 million for the achievement of certain development and commercial milestone events in connection to aficamten in the field of oHCM and/or nHCM and other indications. In addition, Ji Xing will pay us tiered royalties in the low-to-high teens range on the net sales of pharmaceutical products containing aficamten in China and Taiwan, subject to certain reductions for generic competition, patent expiration and payments for licenses to third party patents. The Ji Xing Aficamten License Agreement, unless terminated earlier, will continue on a market-by-market basis until expiration of the relevant royalty term.

Under that certain Royalty Purchase Agreement, dated July 14, 2020, we sold to RTW Royalty Holdings our rights to receive certain payments on the net sales of products containing the compound mavacamten, a cardiac myosin inhibitor under the Research Collaboration Agreement, dated August 24, 2012, between us and MyoKardia, Inc. for an one-time payment of $85 million.

We also entered into common stock purchase agreements with each of RTW Master Fund, Ltd., RTW Innovation Master Fund, Ltd. and RTW Venture Fund Limited (collectively, the "RTW Investors"), we sold and issued an aggregate of 2.0 million shares of our common stock at a price per share of $25.00 and an aggregate purchase price of $50.0 million.

Finally, we also entered into a Funding Agreement (the "Funding Agreement") with RTW Royalty Holdings. Pursuant to the Funding Agreement, RTW Royalty Holdings has committed to provide up to $90.0 million (the "Funding Commitment"), to fund our development and commercialization of aficamten in nHCM and oHCM in exchange for the Funding Commitment and upon receipt of such funding from RTW Royalty Holdings, we would have been liable to make payments to RTW Royalty Holdings equal to 2%, if RTW Royalty Holdings funds $45.0 million of the Funding Commitment, or 4%, if RTW Royalty Holdings funds the full $90.0 million of the Funding Commitment, in each case in respect of net sales of CK-274 by us and any of our licensees in the United States, the European Union, Switzerland, the United Kingdom and certain other countries in Europe. However, on January 7, 2022, we announced that we had elected to unilaterally terminate the Funding Agreement in connection with our entry into the RP Aficamten RPA. At the time of its termination, we had not exercised any rights to sell any revenue interest in aficamten under the Funding Agreement.

Future Sources and Uses of Cash

2022 Royalty Pharma Transactions

On January 7, 2022, we announced that we had entered into the RP Loan Agreement and the RP Aficamten RPA with RPDF and RPI ICAV respectively, each of which are affiliated with Royalty Pharma International plc.

Under the RP Loan Agreement, we are entitled to receive up to $300.0 million in term loans, $50.0 million of which was disbursed to us on closing and the remaining $250.0 available to us upon our satisfaction of customary disbursement conditions and certain development conditions by specific deadlines, as follows:

- $50.0 million of tranche 2 term loans during the one year period following the receipt on or prior to December 31, 2022 of marketing approval from FDA of omecamtiv mecarbil;
- $25.0 million of tranche 3 term loans during the one year period following the commercial availability of a diagnostic test measuring levels of omecamtiv mecarbil to support the final FDA label language applicable to such drug, subject to such commercial availability and the conditions to the tranche 2 term loans having occurred on or prior to December 31, 2022;
- $75.0 million of tranche 4 term loans during the one year period following the receipt on or prior to September 30, 2024 of positive results from SEQUOIA-HCM, the Phase 3 trial for aficamten; and
- $100.0 million of tranche 5 term loans during the one year period following the acceptance by the FDA on or prior to March 31, 2025 of an NDA for aficamten, subject to the conditions to the tranche 4 term loans having occurred on or prior to September 30, 2024.

Each term loan under the RP Loan Agreement matures on the 10 year anniversary of the funding date for such term loan and is repayable in quarterly installments of principal, interest and fees commencing on the last business day of the seventh full calendar quarter following the calendar quarter of the applicable funding date for such Term Loan, with the aggregate amount payable in respect of each term loan (including interest and other applicable fees) equal to 190% of the principal amount of the term loan (such amount with respect to each Term Loan, "Final Payment Amount").

We may prepay the term loans in full (but not in part) at any time at our option by paying an amount equal to the unpaid portion of Final Payment Amount for the outstanding Term Loans; provided that if the conditions for either the tranche 4 term loans or the tranche 5 term loans have been met, we must have borrowed at least $25 million principal amount of the tranche 4 or 5 term loans. In addition, the term loans under the RP Loan Agreement are repayable in full at the option of either us or the lender in an amount equal to the unpaid portion of Final Payment Amount for the outstanding term loans upon a change of control of Cytokinetics.

In addition, on January 7, 2022, we entered into the RP Aficamten RPA with RPI ICAV, pursuant to which RPI ICAV purchased rights to certain revenue streams from net sales of pharmaceutical products containing aficamten by us, our affiliates and our licensees in exchange for up to $150.0 million in consideration, $50.0 million of which was paid on the closing date, $50.0 million of which is payable following the initiation of the first pivotal trial in oHCM for aficamten and $50.0 million of which is payable following the initiation of the first pivotal clinical trial in nHCM for aficamten. The RP Aficamten ARPA also provides that the parties will negotiate terms for additional funding if we achieve proof of concept results in certain other indications for aficamten, with a reduction in the applicable royalty if we and RPI ICAV fail to agree on such terms in certain circumstances.

Pursuant to the RP Aficamten RPA, RPI ICAV purchased the right to receive a percentage of net sales equal to 4.5% for annual worldwide net sales of pharmaceutical products containing aficamten up to $1 billion and 3.5% for annual worldwide net sales of pharmaceutical products containing aficamten in excess of $1 billion, subject to reduction in certain circumstances.

In future periods, we expect to incur substantial costs as we continue to expand our research programs and related research and development activities. We expect to incur significant research and development expenses as we advance the research and development of compounds from our other muscle biology programs through research to candidate selection to clinical development. We may also incur significant sales and marketing expenses if and when one or more of our drug candidates receive regulatory approvals, and in anticipation of regulatory approval of one of our drug candidates.

Our future capital uses and requirements depend on numerous factors. These factors include, but are not limited to, the following:

- the initiation, progress, timing, scope and completion of preclinical research, non-clinical development, chemistry, manufacturing, and controls ("CMC"), and clinical trials for our drug candidates and other compounds;
- the time and costs involved in obtaining regulatory approvals;
- the jurisdictions in which we are granted regulatory approvals and thus are able to successfully launch our products for commercial sale;
- delays that may be caused by requirements of regulatory agencies;
- our level of funding for the development of current or future drug candidates;
- the number of drug candidates we pursue and the stage of development that they are in;
- the costs involved in filing and prosecuting patent applications and enforcing or defending patent claims;
- our ability to establish and maintain selected strategic alliances required for the development of drug candidates and commercialization of our potential drugs;
- our plans or ability to expand our drug development capabilities, including our capabilities to conduct clinical trials for our drug candidates;
- our plans or ability to engage third-party manufacturers for our drug candidates and potential drugs;
- our plans or ability to build or access sales and marketing capabilities and to achieve market acceptance for potential drugs;
- the expansion and advancement of our research programs;
- the hiring of additional employees and consultants;
- the acquisition of technologies, products and other business opportunities that require financial commitments; and
- our revenues, if any, from successful development of our drug candidates and commercialization of potential drugs

- As we advance commercialization plans for omecamtiv mecarbil, which we believe will importantly lay a strong foundation for commercialization of aficamten and the expansion of our cardiovascular franchise, we anticipate that our spending would increase, but we are also studying comparable company best practices and building a fit-for-purpose commercial organization.

As a result of Amgen's and Servier's elections to terminate the Amgen Agreement and the Servier Agreement respectively, we will dedicate resources to ensure the transition of the programs related to omecamtiv mecarbil and CK-136 to us. Finally, notwithstanding the expansion of our collaboration with Ji Xing to include omecamtiv mecarbil in December 2021 and our recent financing transactions with entities affiliated with Royalty Pharma International plc in January 2022, we plan to continue to evaluate a wide range of corporate development strategies for potential co-development, co-commercialization and licensing deals in relation to omecamtiv mecarbil and our other drug candidates in order to mitigate the cost effects of the termination of the Amgen Agreement and Servier Agreement and enhance our commercial capabilities. These cost effects of termination include forfeiture of potential milestone payments from Amgen to us, as well as additional costs to us relating to clinical studies, regulatory filing, and commercialization of omecamtiv mecarbil.

We have incurred an accumulated deficit of $1,207.6 million since inception and there can be no assurance that we will attain profitability. We are subject to risks common to clinical-stage companies including, but not limited to, development of new drug candidates, dependence on key personnel, and the ability to obtain additional capital as needed to fund our future plans. Our liquidity will be impaired if sufficient additional capital is not available on terms acceptable to us, if at all. Until we achieve profitable operations, we intend to continue to fund operations through payments from strategic collaborations, additional sales of equity securities, grants and other financings. We have never generated revenues from commercial sales of our drugs and may not have drugs to market for at least several years, if ever. Our success is dependent on our ability to obtain additional capital by entering into new strategic collaborations and/or through financings, and ultimately on our and our collaborators' ability to successfully develop and market one or more of our drug candidates. We cannot be certain that sufficient funds will be available from such collaborators or financings when needed or on satisfactory terms. Additionally, there can be no assurance that any of our drug candidates will be accepted in the marketplace or that any future products can be developed or manufactured at an acceptable cost. These factors could have a material adverse effect on our future financial results, financial position and cash flows.

Based on the current status of our development plans, we believe that our existing cash and cash equivalents, investments and interest earned on investments will be sufficient to meet our projected operating requirements for at least the next 12 months. If, at any time, our prospects for internally financing our research and development programs decline, we may decide to reduce research and development expenses by delaying, discontinuing or reducing our funding of development of one or more of our drug candidates or of other research and development programs. Alternatively, we might raise funds through strategic relationships, public or private financings or other arrangements. There can be no assurance that funding, if needed, will be available on attractive terms, or at all, or in accordance with our planned timelines. Furthermore, financing obtained through future strategic relationships may require us to forego certain commercialization and other rights to our drug candidates. Similarly, any additional equity financing may be dilutive to stockholders and debt financing, if available, may involve restrictive covenants. Our failure to raise capital as and when needed could have a negative impact on our financial condition and our ability to pursue our business strategy.

Segment Information

We have one primary business activity and operate in one reportable segment.

Off-Balance Sheet Arrangements

We are not party to any off-balance sheet arrangements that have, or are reasonably likely to have, a material current or future effect on our financial condition, revenues or expenses, results of operations, liquidity, capital expenditures or capital resources.

Recent Accounting Pronouncements

The information required by this item is included in Item 8, Note 1, Organization and Accounting Policies, in our Consolidated Financial Statements included in this Annual Report on Form 10-K.

ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

We are exposed to market risks in the ordinary course of our business. These risks primarily include risk related to interest rate sensitivities.

Interest Rate Risk

We are exposed to market risk related to changes in interest rates. As of December 31, 2021, we had cash and short-term investments of $471.6 million, which consisted of consist of U.S. Treasury securities, U.S. and non-U.S. government agency bonds, commercial paper, global portfolio of corporate debt and money market fund. To reduce the volatility relating to these exposures, we have put investment and risk management policies and procedures in place. The primary objective of our investment activities is to preserve capital to fund our operations. We do not enter into investments for trading or speculative purposes and have not used any derivative financial instruments to manage our interest rate risk exposure. Our investments are subject to interest rate risk and could fall in value if market interest rates increase. We have not been exposed to, nor do we anticipate being exposed to, material risks due to changes in interest rates.

Foreign Currency Risk

The majority of our transactions occur in U.S. dollars. However, we do have certain transactions that are denominated in currencies other than the U.S. dollar, primarily Euro and GBP and we therefore are subject to foreign currency exchange risk. The fluctuation in the value of the U.S. dollar against other currencies affects the reported amounts of expenses, assets and liabilities primarily associated with a limited number of operating activities. Foreign currency transaction gains and losses have not been material to our financial statements for the year ended December 31, 2021. A 10% increase or decrease in current exchange rates would not have a material effect on our financial results.

ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

INDEX TO CONSOLIDATED FINANCIAL STATEMENTS

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The Board of Directors and Stockholders
Cytokinetics, Incorporated

Opinion on the Financial Statements

We have audited the accompanying consolidated balance sheets of Cytokinetics, Incorporated (the "Company") as of December 31, 2021 and 2020, the related consolidated statements of operations and comprehensive loss, stockholders' equity (deficit), and cash flows, for each of the three years in the period ended December 31, 2021, and the related notes (collectively referred to as the "consolidated financial statements"). In our opinion, the consolidated financial statements present fairly, in all material respects, the financial position of the Company at December 31, 2021 and 2020, and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2021, in conformity with U.S. generally accepted accounting principles.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the Company's internal control over financial reporting as of December 31, 2021, based on criteria established in Internal Control-Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (2013 Framework) and our report dated February 25, 2022 expressed an unqualified opinion thereon.

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 audits. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud. Our audits included performing procedures to assess the risks of material misstatement of the 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 audits 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 audits provide a reasonable basis for our opinion.

Critical Audit Matters

The critical audit matters communicated below are matters arising from the current period audit of the financial statements that were communicated or required to be communicated to the audit committee and that: (1) relate to accounts or disclosures that are material to the financial statements and (2) involved especially challenging, subjective or complex judgments. The communication of critical audit matters does not alter in any way our opinion on the consolidated financial statements, taken as a whole, and we are not, by communicating the critical audit matters below, providing separate opinions on the critical audit matters or on the accounts or disclosures to which they relate.

Estimates Related to Revenue Participation Right Purchase Agreements

Description of the Matter

As of December 31, 2021, the Company had a liability related to the sale of future royalties, net of $179.1 million, and deferred revenue related to the sale of a different royalty stream of $87.0 million. The Company recognized non-cash interest expense on the liability related to the sale of future royalties of $12.9 million for the year ended December 31, 2021. As described in Note 7 to the consolidated financial statements, the Company has entered into agreements with counterparties to monetize future royalty payments that the Company is either entitled to receive upon commercialization of certain products that were previously licensed to others or that it will commercialize itself. Cash is received upon execution of such revenue participation right purchase agreements, which are then accounted for as either a liability if the Company has significant continuing involvement in the related royalty stream or as deferred revenue if there is no significant continuing involvement. Regardless of whether there is significant continuing involvement, the Company is required to estimate the amount and timing of future royalty payments to be paid to the counterparties of the revenue participation right purchase agreements. The Company periodically assesses the amount and timing of expected royalty payments using a combination of internal projections and forecasts from external sources.

There are a number of factors that could materially affect the amount and timing of royalty payments, most of which are not within the Company's control and management's estimates of the amount and timing of royalty payments to be received or paid require the use of significant unobservable inputs. These inputs are derived using internal management estimates developed based on third party data and reflect management's judgements, current market conditions surrounding competing products, and forecasts. The significant unobservable inputs can include, to the extent applicable, estimates of patient populations, selling price, peak sales and sales ramp, the expected term of the related royalty streams, the timing of expected product launch and its impact on royalty rates, as well as the overall probability of clinical success and regulatory approval. A significant change in unobservable inputs could result in a material increase or decrease to the amount and timing of future cash flows

Auditing management's estimates of future royalty payments was especially challenging due to the significant judgment used by management in estimating the amount and timing of such payments, which required the use of subjective inputs.

How We Addressed the Matter in Our Audit

We obtained an understanding, evaluated the design, and tested the operating effectiveness of controls over the Company's processes for estimating the amount and timing of future royalty payments.

Our audit procedures included, among others, testing management's process for estimating the amount and timing of future royalty payments and evaluating the reasonableness of significant assumptions used by management when developing the estimate of expected future royalties to be paid, including estimates of patient populations, selling price, peak sales and sales ramp, the expected term of the related royalty streams, the timing of expected product launch and its impact on royalty rates, as well as the overall probability of clinical success and regulatory approval. Evaluating the reasonableness of management's assumptions included, among others, consideration of (i) relevant industry forecasts, (ii) consistency with external market research and industry data, and (iii) whether the assumptions were consistent with evidence obtained in other areas of the audit.

Revenue from Collaborative and Licensing Arrangements

Description of the Matter

As described in Note 3, collaboration arrangements may include multiple elements such as license fees, milestone payments, royalties, and research and development cost reimbursement. Further, collaborations may include the delivery of various goods or services to the collaboration partner such as licenses to intellectual property or research and development services. The Company recognized $54.9 million as license revenue during 2021 under the agreement with Ji Xing Pharmaceuticals Limited (the "Ji Xing OM License Agreement").

Auditing the Company's accounting for revenues from this collaboration arrangement was especially challenging due to the complex and highly judgmental nature of evaluating the terms of the related agreements, identifying performance obligations, and determining and allocating the transaction price to the performance obligations.

How We Addressed the Matter in Our Audit

We obtained an understanding, evaluated the design, and tested the operating effectiveness of controls over the Company's processes for assessing the accounting treatment of any new collaboration agreements or modifications to existing collaboration agreements, including assessing the identification of and effort to satisfy performance obligations.

To test the accounting for the Ji Xing OM License Agreement, we tested and evaluated, among other things, the performance obligation identified, the estimates and assumptions used to determine the transaction price, and the allocation of the transaction price to the performance obligation.

/s/ Ernst & Young LLP

We have served as the Company's auditor since 2018.
Redwood City, California
February 25, 2022

CYTOKINETICS, INCORPORATED

CONSOLIDATED BALANCE SHEETS

(In thousands, except share and per share data)

	December 31,	
	2021	**2020**
ASSETS		
Current assets:		
Cash and cash equivalents	$ 112,666	$ 82,985
Short-term investments	358,972	381,075
Accounts receivable	51,819	4,420
Prepaid expenses and other current assets	12,215	5,741
Total current assets	535,672	474,221
Long-term investments	152,050	36,954
Property and equipment, net	73,271	13,346
Operating lease right-of-use assets	73,138	2,924
Other assets	7,188	6,358
Total assets	$ 841,319	$ 533,803
LIABILITIES AND STOCKHOLDERS' EQUITY (DEFICIT)		
Current liabilities:		
Accounts payable	$ 21,087	$ 8,050
Accrued liabilities	34,370	19,315
Short-term operating lease liabilities	14,863	2,785
Other current liabilities	1,540	1,049
Total current liabilities	71,860	31,199
Term loan, net	47,367	46,209
Convertible notes, net	95,471	89,504
Liabilities related to revenue participation right purchase agreement, net	179,072	166,068
Long-term deferred revenue	87,000	87,000
Long-term operating lease liabilities	112,229	440
Other non-current liabilities	4,457	—
Total liabilities	597,456	420,420
Commitments and contingencies		
Stockholders' equity:		
Preferred stock, $0.001 par value:		
Authorized: 10,000,000 shares; Issued and outstanding: none	—	—
Common stock, $0.001 par value:		
Authorized: 163,000,000 shares		
Issued and outstanding: 84,799,542 shares at December 31, 2021 and 71,015,183 shares at December 31, 2020	84	70
Additional paid-in capital	1,452,268	1,105,470
Accumulated other comprehensive (loss) income	(869)	149
Accumulated deficit	(1,207,620)	(992,306)
Total stockholders' equity	243,863	113,383
Total liabilities and stockholders' equity	$ 841,319	$ 533,803

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

CYTOKINETICS, INCORPORATED

CONSOLIDATED STATEMENTS OF OPERATIONS AND COMPREHENSIVE LOSS

(In thousands, except per share data)

	Years Ended December 31,		
	2021	**2020**	**2019**
Revenues:			
Research and development revenues	$ 10,572	$ 16,527	$ 26,868
License revenues	54,856	36,501	—
Milestone revenues	5,000	2,800	—
Total revenues	70,428	55,828	26,868
Operating expenses:			
Research and development	159,938	96,951	86,125
General and administrative	96,803	52,820	39,610
Total operating expenses	256,741	149,771	125,735
Operating loss	(186,313)	(93,943)	(98,867)
Interest expense	(16,440)	(15,963)	(6,623)
Non-cash interest expense on liability related to sale of future royalties	(12,892)	(22,713)	(20,737)
Interest and other income, net	331	5,329	4,535
Net loss	$ (215,314)	$ (127,290)	$ (121,692)
Net loss per share — basic and diluted	$ (2.80)	$ (1.97)	$ (2.11)
Weighted-average number of shares used in computing net loss per share — basic and diluted	76,886	64,524	57,575
Other comprehensive loss:			
Unrealized (loss) gain on available-for-sale securities, net	(1,018)	(530)	179
Comprehensive loss	$ (216,332)	$ (127,820)	$ (121,513)

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

CYTOKINETICS, INCORPORATED

CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY (DEFICIT)

(In thousands, except shares)

	Common Stock		Additional Paid-In Capital	Accumulated Other Comprehensive (loss) Income	Accumulated Deficit	Total Stockholders' Equity (Deficit)
	Shares	Amount				
Balance, December 31, 2018	54,717,906	55	768,703	500	(743,324)	25,934
Exercise of stock options	131,909	—	1,017	—	—	1,017
Issuance of common stock under at-the-market offering, net of issuance costs	3,984,849	4	36,210	—	—	36,214
Issuance under Employee Stock Purchase Plan	172,113	—	1,108	—	—	1,108
Vesting of restricted stock units, net of taxes withheld	165,347	—	(732)	—	—	(732)
Issuance of warrants	—	—	185	—	—	185
Equity component of convertible notes	—	—	49,477	—	—	49,477
Capped call options associated with convertible notes	—	—	(13,386)	—	—	(13,386)
Stock-based compensation	—	—	10,759	—	—	10,759
Other comprehensive income	—	—	—	179	—	179
Net loss	—	—	—	—	(121,692)	(121,692)
Balance, December 31, 2019	59,172,124	59	853,341	679	(865,016)	(10,937)
Exercise of stock options	943,505	1	7,610	—	—	7,611
Exercise of warrants	104,890	—	—	—	—	—
Claims settlement under Section 16(b)	—	—	2,151	—	—	2,151
Underwritten public offering of common stock, net of discounts, commissions and offering cost	8,385,417	8	188,875	—	—	188,883
Issuance of common stock upon private placement	2,000,000	2	36,435	—	—	36,437
Issuance of common stock under Employee Stock Purchase Plan	134,684	—	1,509	—	—	1,509
Vesting of restricted stock units, net of taxes withheld	274,563	—	(2,255)	—	—	(2,255)
Issuance of warrants	—	—	184	—	—	184
Stock-based compensation	—	—	17,620	—	—	17,620
Other comprehensive loss	—	—	—	(530)	—	(530)
Net loss	—	—	—	—	(127,290)	(127,290)
Balance, December 31, 2020	71,015,183	70	1,105,470	149	(992,306)	113,383
Exercise of stock options	1,304,347	3	11,017	—	—	11,020
Vesting of restricted stock units, net of taxes withheld	360,050	—	(4,449)	—	—	(4,449)
Net share settlement	—	—	(418)	—	—	(418)
Underwritten public offering of common stock, net of discounts, commissions and offering cost	11,500,000	11	296,894	—	—	296,905
Issuance of common stock upon private placement	511,182	—	15,144	—	—	15,144
Issuance of common stock under Employee Stock Purchase Plan	108,780	—	1,778	—	—	1,778
Stock-based compensation	—	—	26,832	—	—	26,832
Other comprehensive loss	—	—	—	(1,018)	—	(1,018)
Net loss	—	—	—	—	(215,314)	(215,314)
Balance, December 31, 2021	84,799,542	$ 84	$ 1,452,268	$ (869)	$ (1,207,620)	$ 243,863

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

CYTOKINETICS, INCORPORATED
CONSOLIDATED STATEMENTS OF CASH FLOWS
(In thousands)

	Years Ended December 31,		
	2021	**2020**	**2019**
Cash flows from operating activities:			
Net loss	$ (215,314)	$ (127,290)	$ (121,692)
Adjustments to reconcile net loss to net cash (used in) provided by operating activities:			
Non-cash interest expense on liabilities related to revenue participation right purchase agreement	13,004	22,792	20,737
Non-cash stock-based compensation expense	26,832	17,620	10,759
Non-cash lease expense	7,361	4,221	3,552
Impairment of right-of-use assets	2,844	—	—
Depreciation and amortization of property and equipment	2,276	1,831	1,293
Gain on investment, net	—	(573)	—
Interest receivable and amortization on investments	4,894	(1,194)	(2,587)
Non-cash interest expense related to debt	7,125	6,640	919
Changes in operating assets and liabilities:			
Accounts receivable	(47,399)	743	(2,932)
Contract assets	—	—	4,554
Prepaid and other assets	(7,381)	(5,162)	(3,862)
Accounts payable	1,055	(110)	4,396
Accrued and other liabilities	15,060	7,117	(2,168)
Deferred revenue	—	87,000	—
Operating lease liabilities	43,472	(4,692)	(3,876)
Other non-current liabilities	3,649	—	—
Net cash (used in) provided by operating activities	(142,522)	8,943	(90,907)
Cash flows from investing activities:			
Purchases of investments	(525,042)	(435,825)	(277,883)
Maturities of investments	422,837	247,301	202,599
Sales of investments	3,300	3,061	3,196
Purchases of property and equipment	(48,872)	(11,052)	(2,619)
Net cash used in investing activities	(147,777)	(196,515)	(74,707)
Cash flows from financing activities:			
Proceeds from public offerings of common stock, net of discounts, commissions and offering cost	296,905	188,883	—
Proceeds from private placement, net	15,144	36,225	—
Proceeds from stock-based award activities, net	7,931	6,865	1,393
Claims settlement under Section 16(b)	—	2,151	—
Net proceeds from long-term debt, net of debt discount and issuance costs	—	—	1,710
Net proceeds from convertible notes, net of debt discount and issuance costs	—	—	133,860
Issuance of common stock under at-the-market offering, net of issuance costs	—	—	36,214
Purchase of capped call options associated with convertible notes	—	—	(13,386)
Net cash provided by financing activities	319,980	234,124	159,791
Net increase (decrease) in cash and cash equivalents	29,681	46,552	(5,823)
Cash and cash equivalents, beginning of period	82,985	36,433	42,256
Cash and cash equivalents, end of period	$ 112,666	$ 82,985	$ 36,433
Supplemental cash flow disclosures:			
Cash paid for interest	9,175	9,620	4,059
Right-of-use assets recognized in exchange for operating lease obligations	80,395	1,106	10,687
Right-of-use assets recognized in exchange for finance lease obligations	1,294	—	—
Amounts unpaid for purchases of property and equipment	11,982	—	—

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

CYTOKINETICS, INCORPORATED
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

Note 1 — Organization and Accounting Policies

Organization

Cytokinetics, Incorporated (the "Company", "we" or "our") was incorporated under the laws of the state of Delaware on August 5, 1997. We are a late-stage biopharmaceutical company focused on the discovery and development of novel small molecule therapeutics that modulate muscle function for the potential treatment of serious diseases and medical conditions.

Our financial statements contemplate the conduct of our operations in the normal course of business. We have incurred an accumulated deficit of $1,207.6 million since inception and there can be no assurance that we will attain profitability. We had a net loss of $215.3 million and net cash used in operations of $142.5 million for the year ended December 31, 2021. Cash, cash equivalents and investments increased to $623.7 million as of December 31, 2021 from $501.0 million as of December 31, 2020. We anticipate that we will have operating losses and net cash outflows in future periods.

We are subject to risks common to late-stage biopharmaceutical companies including, but not limited to, development of new drug candidates, dependence on key personnel, and the ability to obtain additional capital as needed to fund our future plans. Our liquidity will be impaired if sufficient additional capital is not available on terms acceptable to us. To date, we have funded operations primarily through sales of our common stock, contract payments under our collaboration agreements, sale of future royalties, debt financing arrangements, government grants and interest income. Until we achieve profitable operations, we intend to continue to fund operations through payments from strategic collaborations, additional sales of equity securities, grants and debt financings. We have never generated revenues from commercial sales of our drugs and may not have drugs to market for at least several years, if ever. Our success is dependent on our ability to enter into new strategic collaborations and/or raise additional capital and to successfully develop and market one or more of our drug candidates. We cannot be certain that sufficient funds will be available from such a financing or through a collaborator when required or on satisfactory terms. Additionally, there can be no assurance that our drug candidates will be accepted in the marketplace or that any future products can be developed or manufactured at an acceptable cost. These factors could have a material adverse effect on our future financial results, financial position and cash flows.

Based on the current status of our research and development activities, we believe that our existing cash, cash equivalents and investments will be sufficient to fund cash requirements for at least the next 12 months after the issuance of these consolidated financial statements. If, at any time, our prospects for financing our research and development programs decline, we may decide to reduce research and development expenses by delaying, discontinuing or reducing our funding of one or more of our research or development programs. Alternatively, we might raise funds through strategic collaborations, public or private financings or other arrangements. Such funding, if needed, may not be available on favorable terms, or at all. The financial statements do not include any adjustments that might result from the outcome of this uncertainty.

Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States ("GAAP") requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosures of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting periods. We evaluate our estimates on an ongoing basis. We base our estimates on our historical experience and also on assumptions that we believe are reasonable; however, actual results could significantly differ from those estimates.

Basis of Presentation

The consolidated financial statements include the accounts of Cytokinetics, Incorporated and its wholly-owned subsidiary and have been prepared in accordance with GAAP. Intercompany transactions and balances have been eliminated in consolidation. Certain prior period amounts have been reclassified to conform the prior period presentation to the current year.

Concentration of Credit Risk and Other Risks and Uncertainties

Financial instruments that potentially subject us to concentrations of risk consist principally of cash and cash equivalents, investments, and accounts receivable.

Our cash, cash equivalents and investments are invested in deposits with two major financial institutions in the United States. Deposits in these banks may exceed the amount of insurance provided on such deposits.

Our exposure to credit risk associated with non-payment is limited to Astellas Pharma Inc. for co-funding one-third of the out-of-pocket clinical development costs which may be incurred in connection with Cytokinetics' Phase 3 clinical trial, COURAGE-ALS, of reldesemtiv in ALS up to a maximum contribution by Astellas of $12.0 million, to our strategic partner in the People's Republic of China (including the Hong Kong and Macau Special Administration Districts) ("China") and Taiwan, Ji Xing Pharmaceuticals Limited ("Ji Xing"), and Royalty Pharma Investments ICAV ("RPI ICAV"), to whom we sold a revenue interest in our net sales of pharmaceutical products containing aficamten under a revenue interest purchase agreement, dated January 7, 2022 (the "RP Aficamten RPA"), as further described in Note 11 below.

Drug candidates we develop may require approvals or clearances from the U.S. Food and Drug Administration ("FDA") or other regulatory agencies prior to commercial sales. There can be no assurance that our drug candidates will receive any of the required approvals or clearances. If we were to be denied approval, or clearance or any such approval or clearance was to be delayed, it would have a material adverse impact on us.

Cash and Cash Equivalents

We consider all highly liquid investments with a maturity of three months or less at the time of purchase to be cash equivalents.

Investments

Available-for-sale investments. Our investments consist of U.S. Treasury securities, U.S. and non-U.S. government agency bonds, commercial paper, global portfolio of corporate debt and money market funds. We designate all investments as available-for-sale and report them at fair value, based on quoted market prices, with unrealized gains and losses recorded in accumulated other comprehensive income and loss. The cost of securities sold is based on the specific-identification method. Investments with original maturities greater than three months and remaining maturities of one year or less are classified as short-term investments. Investments with remaining maturities greater than one year are classified as long-term investments. The amortized cost of debt securities in this category is adjusted for amortization of premiums and accretion of discounts to maturity. Such amortization is included in Interest and other income, net. Recognized gains and losses and declines in value judged to be other-than-temporary, if any, on available-for-sale securities are included in Interest and other income, net. Interest and dividends on securities classified as available-for-sale are included in Interest and other income, net.

All of our available-for-sale investments are subject to a periodic impairment review. If an impairment is the result of a credit loss, we recognize an allowance for credit losses ("ACL"). ACL's reflect management's current estimate of credit losses that are expected to occur over the remaining life of a financial asset. We recognize an impairment charge when a decline in the fair value of investments below the cost basis is judged to be other-than-temporary. Factors we consider in assessing whether an other-than-temporary impairment has occurred include: the nature of the investment; whether the decline in fair value is attributable to specific adverse conditions affecting the investment; the financial condition of the investee; the severity and the duration of the impairment; and whether we have the intent and ability to hold the investment to maturity. When we determine that an other-than-temporary impairment has occurred, the investment is written down to its market value at the end of the period in which it is determined that an other-than-temporary decline has occurred.

Property and Equipment, net

Property and equipment are stated at cost less accumulated depreciation and are depreciated on a straight-line basis over the estimated useful lives of the related assets, which are generally three years for computer equipment and software, five years for laboratory equipment and office equipment, and seven years for furniture and fixtures. Amortization of leasehold improvements and finance lease right-of-use assets are computed using the straight-line method over the shorter of the remaining lease term or the estimated useful life of the related assets, typically ranging from three to twenty-two years. Upon sale or retirement of assets, the costs and related accumulated depreciation and amortization are removed from the balance sheet and the resulting gain or loss is reflected in operations.

Impairment of Long-lived Assets

We review long-lived assets, including property, equipment and right-of-use assets, for impairment whenever events or changes in business circumstances indicate that the carrying amount of the assets may not be fully recoverable. Impairment is measured as the amount by which the carrying amount of a long-lived asset exceeds its fair value. We would recognize an impairment loss when estimated undiscounted future cash flows expected to result from the use of the asset and its eventual disposition are less than its carrying amount.

Leases

We determine if the arrangement contains a lease at inception based on whether the contract conveys the right to control the use of an identified asset. The lease classification is determined at lease commencement, which is the date the underlying asset is available for use by the Company, and preliminary based on whether the arrangement is effectively a financed purchase of the underlying asset (finance lease) or not (operating lease). We determined the lease term at the commencement date by considering whether renewal options and termination options are reasonably assured of exercise. In addition to the fixed minimum lease payments required under the lease arrangements, certain leases include payments of operating expenses that may be revised based on the landlord's estimate. These variable payments are excluded from the lease payments used to determine the right-of-use asset and lease liability and are recognized when the associated activity occurs.

We recognize right-of-use assets and short-term and long-term lease liabilities on our consolidated balance sheets for operating leases. The right-of-use asset and short-term and long-term lease liabilities for finance leases are recognized in property and equipment, other current liabilities, and other non-current liabilities, respectively, on the consolidated balance sheets.

In determining the present value of lease payments, we estimated our incremental borrowing rate based on information available upon commencement. We base the lease liabilities on the present value of remaining lease payments over the remaining terms of the leases using an estimated rate of interest that we would pay to borrow equivalent funds on a collateralized basis at the lease commencement date. The initial right-of-use asset, for both operating and finance leases, is measured based on the lease liability adjusted for any initial direct costs, lease prepayments, and lease incentives.

We recognize rent expense for operating leases on a straight-line basis over the lease term in operating expenses on the consolidated statements of operations. Finance lease right-of-use assets are amortized on a straight-line basis over the shorter of the expected useful life or the lease term, and the carrying amount of the lease liability is adjusted to reflect interest, which is recorded in interest expense.

We exclude from our consolidated balance sheets recognition of leases having a term of 12 months or less (short-term leases). We account for lease and non-lease components as a single component for our operating leases.

Our operating leases consist of the facilities leases with KR Oyster Point 1, LLC (the "Kilroy Lease") and Britannia Pointe Grand Limited Partnership (the "Britannia Leases") and our finance leases are for laboratory equipment.

Revenue Recognition

We recognize revenue when we transfer promised goods or services to customers in an amount that reflects the consideration for those goods or services. To recognize revenue from a contract with a customer, we:

(i) identify our contracts with our customers;

(ii) identify our distinct performance obligations in each contract;

(iii) determine the transaction price of each contract;

(iv) allocate the transaction price to the performance obligations; and

(v) recognize revenue as we satisfy our performance obligations.

At contract inception, we assess the goods or services promised within each contract and assess whether each promised good or service is distinct and determine those that are performance obligations. We then recognize as revenue the amount of the transaction price that is allocated to the respective performance obligation when (or as) the performance obligation is satisfied.

Collaborative Arrangements

We enter into collaborative arrangements with partners that typically include payment to us for one of more of the following: (i) license fees; (ii) milestone payments related to the achievement of developmental, regulatory, or commercial goals; (iii) royalties on net sales of licensed products; and (iv) research and development cost reimbursements. Each of these payments results in collaboration or other revenues. Where a portion of non-refundable up-front fees or other payments received are allocated to continuing performance obligations under the terms of a collaborative arrangement, they are recorded as deferred revenue and recognized as revenue when (or as) the underlying performance obligation is satisfied.

As part of the accounting for these arrangements, we must develop estimates and assumptions that require judgment to determine the underlying stand-alone selling price for each performance obligation which determines how the transaction price is allocated among the performance obligations. The stand-alone selling price may include such items as, forecasted revenues, development timelines, reimbursement rates for personnel costs, discount rates and probabilities of technical and regulatory success, to determine the transaction price to allocate to each performance obligation.

For our collaboration agreements that include more than one performance obligation, such as a license combined with a commitment to perform research and development services, we make judgments to assess the nature of the combined performance obligation to determine whether the combined performance obligation is satisfied over time or at a point in time and, if over time, the appropriate method of measuring progress for purposes of recognizing revenue from non-refundable, up-front fees. We evaluate our progress each reporting period and, if necessary, adjust the measure of a performance obligation and related revenue recognition.

License Fees: If a license to our intellectual property is determined to be distinct from the other performance obligations identified in the arrangement, we recognize revenues from non-refundable, up-front fees allocated to the license when the license is transferred to the licensee and the licensee is able to use and benefit from the license. For licenses that are bundled with other promises, we utilize judgment to assess the nature of the combined performance obligation to determine whether the combined performance obligation is satisfied over time or at a point in time and, if over time, the appropriate method of measuring progress for purposes of recognizing revenue from non-refundable, up-front license fees. We evaluate the measure of progress each reporting period and, if necessary, adjust the measure of performance and related revenue recognition.

Milestone Payments: We use judgment to determine whether a milestone is considered probable of being reached. Using the most likely amount method, we include the value of a milestone payment in the consideration for a contract at inception if we then conclude achieving the milestone is more likely than not. Otherwise, we exclude the value of a milestone payment from contract consideration at inception and recognize revenue for a milestone at a later date, when we judge that it is probable the milestone will be achieved. If we conclude it is probable that a significant revenue reversal would not occur, the associated milestone is included in the transaction price. We then allocate the transaction price to each performance obligation on a relative stand-alone selling price basis, for which we recognize revenue as or when the performance obligations under the contract are satisfied. At the end of each subsequent reporting period, we re-evaluate the probability of achievement of such milestones and any related constraint, and if necessary, adjust our estimate of the overall transaction price. Any such adjustments are recorded on a cumulative catch-up basis, which would affect license, collaboration and other revenues and earnings in the period of adjustment.

Royalties: For contracts that include sales-based royalties, we recognize revenue at the later of (i) when the related sales occur, or (ii) when the performance obligation to which some or all of the royalty has been allocated has been satisfied. To date, we have not recognized any royalty revenues resulting from contracts.

Research and Development Cost Reimbursements: Our joint programs with Astellas under that certain License and Collaboration Agreement for Other Skeletal Sarcomere Activators, dated April 23, 2020, as amended (the “Astellas OSSA Agreement”), and with Amgen under that certain Collaboration and Option Agreement, dated December 29, 2006, as amended (the “Amgen Agreement”) (both of the Astellas OSSA Agreement and the Amgen Agreement having now been terminated), included promises of research and development services. We also entered into the Fast Skeletal Regulatory Activator Agreement with Astellas, dated April 23, 2020 (the “Astellas FSRA Agreement”). Under the Astellas FSRA Agreement, Astellas agreed to pay one-third of the out-of-pocket clinical development costs which may be incurred in connection with the Company’s Phase 3 clinical trial of reldesemtiv in ALS, up to a maximum contribution by Astellas of $12.0 million. We determined that these services collectively were distinct from any licenses provided to Astellas and Amgen under such agreements, and as such, these promises were accounted for as a separate performance obligation recorded over time. We recognized revenue for these services as the performance obligations are satisfied, which we estimated using internal research and development costs incurred.

Accrued Research and Development Expenditures

A substantial portion of our preclinical studies and all of our clinical trials have been performed by third-party contract research organizations ("CROs") and other vendors and our accruals for expenses for preclinical studies and clinical trials may be significant. For preclinical studies, the significant factors used in estimating accruals include the percentage of work completed to date and contract milestones achieved. For clinical trial expenses, the significant factors used in estimating accruals include the number of patients enrolled, duration of enrollment, milestones achieved and percentage of work completed to date. We monitor patient enrollment levels and related activities to the extent practicable through internal reviews, correspondence and status meetings with CROs, and review of contractual terms. We depend on the timeliness and accuracy of data provided by our CROs and other vendors to accrue expenses. If we receive and rely on incomplete or inaccurate data, accruals and expenses may be too high or too low at a given point in time and corresponding adjustments to accruals and expenses would be made in future periods when the actual expense becomes known.

Revenue Participation Right Purchase Agreements

We have entered into certain revenue participation right purchase agreements with certain investors, pursuant to which such investors purchased rights to royalties from certain revenue streams in exchange for consideration. We typically account for such agreements as debt to be amortized under the effective interest rate method over the life of the related royalty stream, when we have continuing involvement with the underlying R&D. We typically account for such agreements as deferred income to be amortized under the units-of-revenue method, when there is no continuing involvement with the underlying R&D.

Revenue participation right purchase agreements are recognized using significant unobservable inputs. These inputs are derived using internal management estimates developed based on third party data and reflect management's judgements, current market conditions surrounding competing products, and forecasts. We will periodically assess the amount and timing of expected royalty payments and account for any changes in such estimates on a prospective basis.

Research and Development Expenditures

Research and development costs are charged to operations as incurred. Research and development expenses consist primarily of clinical manufacturing costs, preclinical study expenses, consulting and other third-party costs, employee compensation, supplies and materials, allocation of overhead and occupancy costs, facilities costs and depreciation of equipment.

Income Taxes

We account for income taxes under the asset and liability method. Under this method, deferred tax assets and liabilities are determined based on the difference between the financial statement and tax basis of assets and liabilities using enacted tax rates in effect for the year in which the differences are expected to affect taxable income. Valuation allowances are established when necessary to reduce deferred tax assets to the amounts expected to be realized.

We recognize uncertain tax positions taken or expected to be taken on a tax return. Tax positions are initially recognized when it is more likely than not that the position will be sustained upon examination by the tax authorities. Such tax positions are initially and subsequently measured as the largest amount of tax benefit that is more likely than not of being realized upon ultimate settlement with the tax authority assuming full knowledge of the position and relevant facts.

We recognize interest accrued related to unrecognized tax benefits and penalties as income tax expense.

The only aspect of ASU 2019-12 that had a material impact on our consolidated financial statements was the removal of the exception related to intraperiod tax allocation. Starting in 2019, we followed the general intraperiod allocation of tax expense. We have a loss from continuing operations and subsequent to the adoption of ASU 2019-12, we determined the amount attributable to continuing operations without regard to the tax effect of other items. We prospectively applied the ASU 2019-12 amendment related to intraperiod tax allocation.

Had the Company not adopted ASU 2019-12, upon issuance of the convertible notes in 2019 (see Note 6 – Debt) a $12.0 million deferred tax benefit would have been recognized along with corresponding decreases to net loss and accumulated deficit. The Company had no intraperiod tax allocation items in prior years.

Due to our net loss position, the income tax benefit generated without the adoption of ASU 2019-12 was a non-cash benefit. The adoption of ASU 2019-12 did not impact our cash flows.

Stock-Based Compensation

We maintain equity incentive plans under which incentive stock options may be granted to employees and nonqualified stock options, restricted stock awards, performance-based stock units and stock appreciation rights may be granted to employees, directors, consultants and advisors. In addition, we maintain an employee stock purchase plan ("ESPP") under which employees may purchase shares of our common stock through payroll deductions.

Stock-based compensation expense related to stock options granted to employees and directors is recognized based on the grant date estimated fair values using the Black Scholes option pricing model. The value of the portion of the award that is ultimately expected to vest is recognized as expense ratably over the requisite service period.

Stock-based compensation expense related to performance-based stock units granted to employees is recognized based on the grant-date fair value of each award and recorded as expense over the vesting period using the ratable method when the underlying performance conditions are deemed probable.

Stock-based compensation expense related to the ESPP is recognized based on the fair value of each award estimated on the first day of the offering period using the Black Scholes option pricing model and recorded as expense over the service period using the straight-line method.

Amortization of Debt Discount and Issuance Costs

Debt discount and issuance costs, consisting of legal and other fees directly related to the debt as well as the discount created by the bifurcation of the equity component and the debt component of the convertible senior notes due 2026 (the "2026 Notes"), are offset against gross proceeds from the issuance of debt and are amortized to interest expense over the estimated life of the debt based on the effective interest method.

Recent Accounting Standards

In August 2020, the FASB issued ASU 2020-06, Debt-Debt with Conversion and Other Options (Subtopic 470-20) and Derivatives and Hedging-Contracts in Entity's Own Equity (Subtopic 815-40): Accounting for Convertible Instruments and Contracts in an Entity's Own Equity ("ASU 2020-06"). Under ASU 2020-06 the embedded conversion features are no longer separated from the host contract for convertible instruments with conversion features that are not required to be accounted for as derivatives under Topic 815, Derivatives and Hedging, or that do not result in substantial premiums accounted for as paid-in capital. Consequently, a convertible debt instrument will be accounted for as a single liability measured at its amortized cost and convertible preferred stock will be accounted for as a single equity instrument measured at its historical cost, as long as no other features require bifurcation and recognition as derivatives. By removing those separation models, the interest rate of convertible debt instruments typically will be closer to the coupon interest rate. ASU 2020-06 also provides for certain disclosures with regard to convertible instruments and associated fair values. ASU 2020-06 will be effective for annual reporting periods after December 15, 2021 and interim periods within those annual periods and early adoption is permitted. ASU 2020-06 provides companies with the option to adopt the new standard using either the full retrospective or modified retrospective method.

We will adopt this new guidance using the modified retrospective method as of January 1, 2022 with respect to our convertible senior notes due 2026 (the "2026 Notes"). The adoption of this new guidance is estimated to result in an increase in the carrying value of the 2026 Notes by approximately $38.9 million to reflect the full principal amount of the convertible notes outstanding, net of issuance costs, a decrease in additional paid-in capital of approximately $49.5 million to remove the equity component separately recorded for the conversion feature associated with the convertible notes, a cumulative-effect adjustment of approximately $10.6 million to the beginning balance of our accumulated deficit as of January 1, 2022, and a reversal of the related deferred tax liability of $8.3 million with a corresponding increase in our valuation allowance. The adoption of this new guidance is expected to reduce non-cash interest expense for the year ending December 31, 2022 and until the 2026 Notes have been settled. The remaining debt issuance costs will continue to be amortized over the term of the notes. There is no expected impact to our Consolidated Statement of Cash Flows as a result of the adoption.

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

Note 2 — Net Loss Per Share

Basic net loss per share is computed by dividing net loss by the weighted average number of vested common shares outstanding during the period. Diluted net loss per share is computed by giving effect to all potentially dilutive common shares, including outstanding stock options, unvested restricted stock, warrants, convertible preferred stock and shares issuable under our ESPP, during the period using the treasury stock method and convertible notes using the if-converted method.

The following instruments were excluded from the computation of diluted net loss per share for the periods presented because their effect would have been antidilutive (in thousands):

	Years Ended December 31,		
	2021	2020	2019
Options to purchase common stock	9,373	8,510	7,759
Warrants to purchase common stock	48	48	165
Restricted stock and performance units	1,415	1,117	839
Shares issuable related to the ESPP	8	12	27
Shares issuable upon conversion of convertible notes	16,675	16,675	16,675
Total shares	27,519	26,362	25,465

Note 3 — Research and Development Arrangements

License and milestone revenues recognized during 2021, 2020 and 2019 were as follows (in thousands):

	Years Ended December 31,		
	2021	2020	2019
License revenues	$ 54,856	$ 36,501	$ —
Milestone revenues	5,000	2,800	—
	$ 59,856	$ 39,301	$ —

2021 Ji Xing and RTW Transactions

The Ji Xing OM License Agreement, as defined below, and the sales of common stock to the RTW Investors in December 2021, as described below, (together the "2021 RTW Transactions") were entered into with parties that are affiliated and in contemplation of one another and, accordingly, we have assessed the accounting for these transactions in the aggregate. We concluded that there were two units of accounting in the 2021 RTW Transactions as further described below. The Company allocated the total consideration in accordance with *ASC 820* and *ASC 606* as follows (in thousands):

	Allocated Consideration
Units of Accounting:	
License and collaboration	$ 54,856
Common stock (fair value)	15,144
Total consideration	$ 70,000

Ji Xing Omecamtiv Mecarbil License and Collaboration Agreement

On December 20, 2021, we entered into a License and Collaboration Agreement (the "Ji Xing OM License Agreement") with Ji Xing, pursuant to which we granted to Ji Xing an exclusive license to develop and commercialize omecamtiv mecarbil in China and Taiwan. Under the terms of the Ji Xing OM License Agreement, we are the beneficiary of a nonrefundable $50.0 million payment obligation from Ji Xing comprised of a $40.0 million payment as consideration for the rights granted by us to Ji Xing and $10.0 million attributable to our having submitted to FDA a new drug application ("NDA") for omecamtiv mecarbil. We may be eligible to receive from Ji Xing additional payments totaling up to $330.0 million for the achievement of certain commercial milestone events in connection to omecamtiv mecarbil. In addition, Ji Xing will pay us tiered royalties in the mid-teens to the low twenties range on the net sales of pharmaceutical products containing omecamtiv mecarbil in China and Taiwan, subject to certain reductions for generic competition, patent expiration and payments for licenses to third party patents.

Ji Xing will be responsible for the development and commercialization of omecamtiv mecarbil at its own cost and is required to use diligent efforts to develop and commercialize omecamtiv mecarbil in China and Taiwan. The development of omecamtiv mecarbil will be initially focused on heart failure with reduced ejection fraction ("HFrEF"), and Ji Xing will have the opportunity to participate in Cytokinetics' global clinical trials of omecamtiv mecarbil. Cytokinetics will supply omecamtiv mecarbil to Ji Xing either as a finished product or as an active pharmaceutical ingredient.

The Ji Xing OM License Agreement, unless terminated earlier, will continue on a market-by-market basis until expiration of the relevant royalty term. Ji Xing has the right to terminate the Ji Xing OM License Agreement for convenience. Each party may terminate the Ji Xing OM License Agreement for the other party's uncured material breach, insolvency, or failure to perform due to extended force majeure events. Cytokinetics may also terminate the Ji Xing OM License Agreement if Ji Xing challenges Cytokinetics' patents or undergoes certain change of control transactions. Rights granted to Ji Xing in relation to omecamtiv mecarbil will revert to Cytokinetics upon termination, and, under certain circumstances, subject to a low single digit royalty payment by the Company to Ji Xing on the net sales of the products containing the compound omecamtiv mecarbil in China and Taiwan. We assessed this arrangement in accordance with *ASC 606* and concluded that there is one performance obligation relating to the license of functional intellectual property. The performance obligation was satisfied, and we recognized the residual allocation of arrangement consideration as revenue of $54.9 million for 2021. Due to the nature of development, including the inherent risk of development and approval by regulatory authorities, we are unable to estimate if and when the development milestone payments could be achieved or become due and, accordingly, we consider the milestone payments to be fully constrained and excluded any potential milestone payments from the initial transaction price.

The consideration related to sales-based milestone payments, including royalties, will be recognized when the related sales occur under the sales- and usage-based royalty exception as these amounts have been determined to relate predominantly to the license.

We re-evaluate the probability of achievement of development milestones and any related constraints each reporting period. We will include consideration, without constraint, in the transaction price to the extent it is probable that a significant reversal in the amount of cumulative revenue recognized will not occur.

Common Stock Purchase Agreements

On December 20, 2021, as part of the 2021 RTW Transactions, we entered into common stock purchase agreements with each of RTW Master Fund, Ltd., RTW Innovation Master Fund, Ltd. and RTW Venture Fund Limited (collectively, the "RTW Investors"). These common stock purchase agreements provided for the sale and issuance of an aggregate of 511,182 shares of our common stock at a price per share of $39.125 and an aggregate purchase price of $20.0 million. The closing occurred on December 20, 2021. The RTW Investors have agreed to certain trading and other restrictions with respect to the shares of common stock they purchased pursuant to these agreements, including a restriction on sales or other transfers of the shares, subject to certain exceptions, for a period of one year from the closing date. The restrictions resulted in a premium paid by the RTW investors of $4.9 million, which represents the excess amount paid over the fair value of the shares of common stock purchased. The premium was determined by analyzing the restrictions discount applied to the closing stock price as of December 20, 2021, which is a Level 2 fair value input. The cash received less the calculated premium is the $15.1 million fair value of the common stock recorded.

2020 Ji Xing and RTW Transactions

On July 14, 2020, we entered into a series of transactions as described below with RTW Royalty Holdings Designated Activity Company ("RTW Royalty Holdings") and Ji Xing Pharmaceuticals Limited ("Ji Xing"), related to aficamten, our proprietary small molecule cardiac myosin inhibitor product, a novel cardiac myosin inhibitor, and other assets (together, the "2020 RTW Transactions"). The 2020 RTW Transactions include entering into a licensing and collaboration agreement with Ji Xing, the sale of Cytokinetics common stock to the RTW Investors (as defined below), an agreement to sell to RTW Royalty Holdings our interest in certain future royalties on net sales of products containing the compound mavacamten that is being developed by Bristol-Myers Squibb Company (formerly by MyoKardia, Inc.), and the ability for the Company to obtain additional funding in the future from RTW Royalty Holdings, upon the achievement of certain clinical trial milestones, in exchange for future royalty payments as further discussed below. As a result, we have received and expect to receive a combination of license fees, milestone revenues and sale proceeds from the RTW Investors, RTW Royalty Holdings and Ji Xing.

The 2020 RTW Transactions were entered into with parties that are affiliated and in contemplation of one another and, accordingly, we have assessed the accounting for these transactions in the aggregate. We concluded that there were three units of accounting in the 2020 RTW Transactions as further described below. The Company allocated the total consideration in accordance with *ASC 820, Fair Value Measurement*, and *ASC 606, Revenue from Contracts with Customers*, as follows (in thousands):

		Allocated Consideration
Units of Accounting:		
License and collaboration (residual)	$	36,501
Royalty (fair value)		87,000
Common stock (fair value)		36,499
Total consideration	$	160,000

Ji Xing Aficamten License and Collaboration Agreement

We entered into a License and Collaboration Agreement (the "Ji Xing Aficamten License Agreement") with Ji Xing, pursuant to which we granted to Ji Xing an exclusive license to develop and commercialize aficamten in China and Taiwan. Under the terms of the Ji Xing Aficamten License Agreement, we received from Ji Xing a nonrefundable upfront payment of $25.0 million. We may be eligible to receive from Ji Xing milestone payments totaling up to $200.0 million for the achievement of certain development and commercial milestone events in connection to aficamten in the field of obstructive hypertrophic cardiomyopathy ("oHCM") and/or non-obstructive hypertrophic cardiomyopathy ("nHCM") and other indications. In addition, Ji Xing will pay us tiered royalties in the low-to-high teens range on the net sales of the products containing aficamten in China and Taiwan, subject to certain reductions for generic competition, patent expiration and payments for licenses to third party patents.

Ji Xing will be responsible for the development and commercialization of aficamten at its own cost and is required to use diligent efforts to develop and commercialize aficamten in China and Taiwan. The development of aficamten will be initially focused on hypertrophic cardiomyopathy, and Ji Xing will have the opportunity to participate in Cytokinetics' global pivotal clinical trials of aficamten. Cytokinetics or a designated supplier will supply aficamten to Ji Xing either as a finished product or as an active pharmaceutical ingredient.

The Ji Xing Aficamten License Agreement, unless terminated earlier, will continue on a market-by-market basis until expiration of the relevant royalty term. Ji Xing has the right to terminate the Ji Xing Aficamten License Agreement for convenience. Each party may terminate the Ji Xing Aficamten License Agreement for the other party's uncured material breach, insolvency, or failure to perform due to extended force majeure events. Cytokinetics may also terminate the Ji Xing Aficamten License Agreement if Ji Xing challenges Cytokinetics' patents or undergoes certain change of control transactions. Rights granted to Ji Xing in relation to aficamten will revert to Cytokinetics upon termination, and, under certain circumstances, subject to a low single digit royalty payment by the Company to Ji Xing on the net sales of the products containing the compound aficamten in China and Taiwan.

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

We assessed this arrangement in accordance with *ASC 606* and concluded that there is one performance obligation relating to the license of functional intellectual property. The performance obligation was satisfied, and we recognized the residual allocation of arrangement consideration as revenue of $36.5 million for 2020. No license revenue was recognized in 2021 related to the Ji Xing Aficamten License Agreement. Due to the nature of development, including the inherent risk of development and approval by regulatory authorities, we are unable to estimate if and when the development milestone payments could be achieved or become due and, accordingly, we consider the milestone payments to be fully constrained and exclude the milestone payments from the initial transaction price.

The consideration related to sales-based milestone payments, including royalties, will be recognized when the related sales occur under the sales- and usage-based royalty exception of *ASC 606* as these amounts have been determined to relate predominantly to the license.

We re-evaluate the probability of achievement of development milestones and any related constraints each reporting period. We will include consideration, without constraint, in the transaction price to the extent it is probable that a significant reversal in the amount of cumulative revenue recognized will not occur.

We earned a $2.5 million milestone from Ji Xing as of December 31, 2020 for the first patient dosed in Cohort 2 of REDWOOD-HCM (**R**andomized **E**valuation of **D**osing **W**ith CK-274 in **O**bstructive **O**utflow **D**isease in **HCM**). We determined recognition of the milestone during 2020 was appropriate based on clinical trial progress. Our determination that we expected to earn the $2.5 million milestone resulted in a change in the overall transaction price of the collaboration agreement, as it was probable that a significant reversal of cumulative revenue would not occur. A corresponding contract asset was recorded in other current assets in our consolidated balance sheet as of December 31, 2020 and was released in the first quarter of 2021 upon receipt of cash.

We recognized a $5.0 million milestone from Ji Xing during the third quarter of 2021 for initiation of a phase 3 clinical trial for aficamten in obstructive HCM. Although our contractual right to payment has not yet arisen under the Ji Xing Aficamten License Agreement, we determined recognition of the milestone in accordance with *ASC 606* during the third quarter of 2021 was appropriate based on our expected initiation of a phase 3 clinical trial of aficamten in obstructive HCM and recorded a corresponding contract asset in other current assets in our consolidated balance sheet as of December 31, 2021.

Royalty Purchase Agreement

We entered into a Royalty Purchase Agreement (the “RTW Royalty Purchase Agreement”) with RTW Royalty Holdings, pursuant to which we sold our right to receive certain payments on the net sales of products containing the compound mavacamten, a cardiac myosin inhibitor (the “Mavacamten Royalty”), under the Research Collaboration Agreement, dated August 24, 2012, between us and MyoKardia, Inc. to RTW Royalty Holdings for a one-time payment of $85.0 million. The RTW Royalty Purchase Agreement transaction closed on November 13, 2020. On March 31, 2021, RTW Royalty Holdings assigned its rights and obligations under the RTW Royalty Purchase Agreement to its affiliate, RTW Investments ICAV for RTW Fund 1 (“RTW ICAV”).

The allocation of the consideration for the 2020 RTW Transactions resulted in $87.0 million being allocated to the RTW Royalty Purchase Agreement representing its fair value. The fair value was determined using an income approach method based on management’s estimates of the discounted cash flows to be received over the term of the related royalty agreement, which are Level 3 fair value inputs. Management’s estimates included significant unobservable inputs. These inputs are derived using internal management estimates developed based on third party data and reflect management’s judgements, current market conditions surrounding competing products, and forecasts. The significant unobservable inputs include the estimated patient population, estimated selling price, estimated peak sales and sales ramp, the expected term of the royalty stream, and timing of the expected launch. The $87.0 million recorded as deferred revenue will be amortized using the units-of-revenue method.

We will recognize revenue related to the sale of the Mavacamten Royalty using the units-of-revenue method. Under the units-of-revenue method, the revenue to be recognized for a period is calculated by computing a ratio of the Mavacamten Royalty paid to RTW Royalty Holdings for a given period to the total payments expected to be made to RTW Royalty Holdings over the term of the agreement, and then applying that ratio to the period's cash payment. We will record any adjustments due to changes in the underlying royalties on a cumulative catch-up basis.

Common Stock Purchase Agreements

On July 14, 2020, we entered into common stock purchase agreements with each of RTW Master Fund, Ltd., RTW Innovation Master Fund, Ltd. and RTW Venture Fund Limited (collectively, the "RTW Investors"). These common stock purchase agreements provided for the sale and issuance of an aggregate of 2.0 million shares of common stock of Cytokinetics at a price per share of $25.00 and an aggregate purchase price of $50.0 million. The closing occurred on July 14, 2020. The RTW Investors have agreed to certain trading and other restrictions with respect to the shares of common stock they purchased pursuant to these agreements, including a restriction on sales or other transfers of the shares, subject to certain exceptions, for a period of two years from the closing date, which period will be extended if certain conditions are met. The restrictions resulted in a premium paid by RTW investors of $13.5 million which represents the excess amount paid over the fair value of the shares of common stock purchased. The premium was determined by analyzing the holding period discount applied to the 30-day average stock price as of July 14, 2020, which is a Level 2 fair value input. The cash received less the calculated premium is the $36.5 million fair value of the common stock recorded.

Funding Agreement

During July 2020, we also entered into a Funding Agreement (the "Funding Agreement") with RTW Royalty Holdings. Pursuant to the Funding Agreement, RTW Royalty Holdings has committed to provide up to $90.0 million (the "Funding Commitment") to fund our development and commercialization of aficamten in nHCM and oHCM.

On January 7, 2022, we announced that we had elected to unilaterally terminate the Funding Agreement in connection with our entry into the RP Aficamten RPA. At the time of its termination, we had not exercised any rights to sell any revenue interest in aficamten under the Funding Agreement.

Astellas

Our strategic alliance with Astellas to advance novel therapies for diseases and medical conditions associated with skeletal muscle impairment and weakness commenced in 2013 under the License and Collaboration Agreement, dated June 21, 2013 between the parties (the "Astellas Agreement").

On April 23, 2020, we and Astellas entered into the two agreements referenced below which, taken together, amend and restate the Company's research, development and commercialization collaboration with Astellas under the Astellas Agreement.

Fast Skeletal Regulatory Activator Agreement

The Company and Astellas entered into a Fast Skeletal Regulatory Activator Agreement, dated April 23, 2020 (the "Astellas FSRA Agreement"). As a result of the Astellas FSRA Agreement, the Company will now have exclusive control and responsibility for the Company's future development and commercialization of reldesemtiv, CK-601 and other fast skeletal regulatory activator (collectively "FSRA") compounds and products, and accordingly, Astellas has agreed to terminate its license to all FSRA compounds and related products.

Under the Astellas FSRA Agreement, Astellas agreed to pay one-third of the out-of-pocket clinical development costs which may be incurred in connection with the Company's Phase 3 clinical trial of reldesemtiv in ALS, up to a maximum contribution by Astellas of $12 million. In addition, Astellas agreed to non-cash contributions to the Company, which include the transfer of its existing inventories of active pharmaceutical ingredient of reldesemtiv and CK-601. Astellas has also agreed to the continued conduct of ongoing stability studies pertaining to such existing inventories of active pharmaceutical ingredient, at Astellas' cost. In exchange, the Company will pay Astellas a low- to mid- single digit royalty on sales of reldesemtiv in the United States, Canada, United Kingdom and the European Union until the later of (i) ten years following the first commercial sale of such product in a major market country, or (ii) December 31, 2034, subject to certain royalty reduction provisions. The Company will not owe Astellas royalties on sales of reldesemtiv in any other country, or on the sale of any FSRA compounds or related products other than reldesemtiv.

License and Collaboration Agreement for Other Skeletal Sarcomere Activators

The Company and Astellas also entered into that certain License and Collaboration Agreement for Other Skeletal Sarcomere Activators, dated April 23, 2020 (the "Astellas OSSA Agreement"), which is an amendment and restatement of the Astellas Agreement and removes the FSRA compounds and related products from the collaboration.

On April 27, 2021, we received written notice of termination from Astellas of the Astellas OSSA Agreement. The termination of the Astellas OSSA Agreement was effective November 1, 2021.

We recognized research revenue for reimbursements from Astellas of internal costs of certain full-time employee equivalents, supporting collaborative research and development programs, and of other costs related to those programs through March 31, 2021 when the research term of the Astellas OSSA Agreement expired.

Research and development revenues from Astellas for 2021, 2020 and 2019 were $3.2 million, $6.6 million, and $13.1 million, respectively.

We had accounts receivable from Astellas of $1.8 million as of December 31, 2021 and $2.7 million as of December 31, 2020.

Amgen

On November 23, 2020, we received written notice of termination from Amgen of that certain Collaboration and Option Agreement, dated December 29, 2006, as amended (the "Amgen Agreement") pertaining to the discovery, development and commercialization of novel small molecule therapeutics, including omecamtiv mecarbil, a novel cardiac myosin activator, and CK-136 (formerly AMG 594), a novel cardiac troponin activator. The termination of the Amgen Agreement was effective May 20, 2021.

We recognized research and development revenue for reimbursements from Amgen of both internal costs of certain full-time employee equivalents and other costs related to the Amgen Agreement, which terminated effective May 20, 2021. Research and development revenue from Amgen was $7.4 million in 2021, $10.0 million in 2020 and $13.8 million in 2019 and consists of reimbursement of costs we incurred related to METEORIC-HF.

We had no accounts receivable from Amgen as of December 31, 2021. Accounts receivable from Amgen was $1.7 million as of December 31, 2020.

Note 4 — Fair Value Measurements

We value our financial assets and liabilities at fair value, defined as the price that would be received for assets when sold or paid to transfer a liability in an orderly transaction between market participants at the measurement date (exit price). We utilize market data or assumptions that we believe market participants would use in pricing the asset or liability, including assumptions about risk and the risks inherent in the inputs to the valuation technique. These inputs can be readily observable, market corroborated or generally unobservable.

We primarily apply the market approach for recurring fair value measurements and endeavor to utilize the best information reasonably available. Accordingly, we use valuation techniques that maximize the use of observable inputs and minimize the use of unobservable inputs to the extent possible and consider the security issuers' and the third-party issuers' credit risk in our assessment of fair value.

We classify fair value based on the observability of those inputs using a hierarchy that prioritizes the inputs used to measure fair value. The hierarchy gives the highest priority to unadjusted quoted prices in active markets for identical assets or liabilities (Level 1 measurement) and the lowest priority to unobservable inputs (Level 3 measurement):

Level 1 — Observable inputs, such as quoted prices in active markets for identical assets or liabilities;

Level 2 — Inputs, other than the quoted prices in active markets, that are observable either directly or through corroboration with observable market data; and

Level 3 — Unobservable inputs, for which there is little or no market data for the assets or liabilities, such as internally-developed valuation models.

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

Fair Value of Financial Assets

The follow tables set forth the fair value of our financial assets, which consists of cash equivalents and investments classified as available-for-sale securities, that were measured on a recurring basis (in thousands):

		December 31, 2021			
	Fair Value Hierarchy Level	Amortized Cost	Unrealized Gains	Unrealized Losses	Fair Value
Money market funds	Level 1	$ 115,937	$ —	$ —	$ 115,937
U.S. Treasury securities	Level 1	133,498	1	(268)	133,231
U.S. and non-U.S. government agency bonds	Level 2	33,489	—	(53)	33,436
Commercial paper	Level 2	169,622	6	(19)	169,609
U.S. and non-U.S. corporate obligations	Level 2	175,282	—	(536)	174,746
		$ 627,828	$ 7	$ (876)	$ 626,959

		December 31, 2020			
	Fair Value Hierarchy Level	Amortized Cost	Unrealized Gains	Unrealized Losses	Fair Value
Money market funds	Level 1	$ 80,050	$ —	$ —	$ 80,050
U.S. Treasury securities	Level 1	274,407	147	(8)	274,546
U.S. government agency bonds	Level 2	51,581	15	(3)	51,593
Commercial paper	Level 2	49,500	3	(1)	49,502
U.S. and non-U.S. corporate obligations	Level 2	42,392	7	(11)	42,388
		$ 497,930	$ 172	$ (23)	$ 498,079

The available-for-sale securities in our consolidated balance sheet are as follows (in thousands):

	December 31, 2021	December 31, 2020
Cash equivalents	$ 115,937	$ 80,050
Short-term investments	358,972	381,075
Long-term investments	152,050	36,954
	$ 626,959	$ 498,079

Interest income was $1.0 million, $5.3 million and $4.5 million in 2021, 2020 and 2019, respectively.

No credit losses on debt securities were recognized in either 2021 or 2020. In its evaluation to determine expected credit losses, management considered all available historical and current information, expectations of future economic conditions, the type of security, the credit rating of the security, and the size of the loss position, as well as other relevant information. The Company does not intend to sell, and is unlikely to be required to sell, any of these available-for-sale investments before their effective maturity or market price recovery.

The carrying amount of our accounts receivable and accounts payable approximate fair value due to the short-term nature of these instruments.

Fair Value of Financial Liabilities:

As of December 31, 2021, the fair value of our term loan approximated its carrying value of $47.4 million based upon a market observable interest rate, which is a Level 2 input (see Note 6 – “Debt”).

As of December 31, 2021, the estimated fair value of our convertible notes was $618.9 million and was based upon observable, Level 2 inputs, including pricing information from recent trades of the convertible notes (see Note 6 – “Debt”).

As of December 31, 2021, the fair value of the liability related to the sale of future royalties to RPI Finance Trust ("RPFT") is consistent with its carrying value of $179.1 million, and is based on our current estimates of future royalties expected to be paid to RPFT under the Royalty Purchase Agreement (the "RP OM RPA"), over the life of the arrangement, which are considered Level 3 inputs (see Note 7 – "Liabilities Related to Revenue Participation Right Purchase Agreements").

There were no transfers between Level 1, Level 2, and Level 3 during the periods presented.

Note 5 — Balance Sheet Components

Our property and equipment consisted of (in thousands):

	December 31,	
	2021	2020
Property and equipment, net:		
Laboratory equipment	$ 18,837	$ 18,160
Computer equipment and software	4,605	2,940
Office equipment, furniture and fixtures	4,042	1,885
Leasehold improvements	60,343	5,872
Construction in progress	224	9,130
Right-of-use assets, finance lease	1,409	—
Total property and equipment	89,460	37,987
Less: Accumulated depreciation and amortization	(16,189)	(24,641)
	$ 73,271	$ 13,346

Depreciation expense was $2.3 million, $1.8 million and $1.3 million for 2021, 2020 and 2019, respectively.

The balance of property and equipment increased significantly in 2021 primarily due to our relocation from our existing headquarters to our new facilities at Oyster Point in the fourth quarter of 2021 (see Note 9 – Commitments and Contingencies).

Our accrued liabilities were as follows (in thousands):

	December 31,	
	2021	2020
Accrued liabilities:		
Clinical and preclinical costs	$ 13,872	$ 6,124
Compensation related	14,930	11,787
Other accrued expenses	5,568	1,404
Total accrued liabilities	$ 34,370	$ 19,315

We sponsor a 401(k) defined contribution plan covering all employees and contributed $1.1 million, $0.9 million and $0.6 million to this plan in 2021, 2020 and 2019 respectively.

Note 6 — Debt

Term Loan

Prior to May 17, 2019, we maintained a loan and security agreement dated as of October 19, 2015, as amended (the "Original Loan Agreement") with Silicon Valley Bank and Oxford Finance LLC ("Oxford") (the "Lenders") to fund our working capital and other general corporate needs.

On May 17, 2019, we entered into a new loan and security agreement (the "Term Loan Agreement") with the Lenders for $45.0 million (the "Term Loan") and terminated the Original Loan Agreement. The proceeds of the Term Loan were used in part to repay in full all of the outstanding term loans under the Original Loan Agreement in an aggregate principal amount of $42.0 million. On November 6, 2019, and November 7, 2019, the Company entered into a First Amendment and a Second Amendment to the Term Loan Agreement. The Term Loan Agreement, as amended, permits the issuance of the Convertible Notes and Capped Call Transactions discussed below. On July 16, 2020, the Company and the Lenders entered into the Third Amendment to the Term Loan Agreement, which amended the Term Loan Agreement to permit (i) the sale of the Mavacamten Royalty under the RTW Royalty Purchase Agreement and (ii) subject to entry into an intercreditor agreement between Oxford (as security agent for the Lenders) and RTW Royalty Holdings in form and substance reasonably satisfactory to the Lenders and RTW Royalty Holdings, permits the draw of funding under the Funding Agreement and the grant of a security interest to RTW Royalty Holdings in the intellectual property located in the United States and accounts receivable related to aficamten. On June 30, 2021, the Company and the Lenders entered into the Fourth Amendment to the Term Loan Agreement, which amended the Term Loan Agreement to permit our ability to incur lease obligations for equipment, software and other property that may be leased under our lease agreements not to exceed $3.0 million in the aggregate. As of December 31, 2021, the Company has drawn approximately $1.4 million under such lease agreements.

The Term Loan was accounted for as a debt modification in a non-troubled debt restructuring based on a comparison of the present value of the cash flows under the terms of the debt immediately before and after the effective date of the Term Loan, which resulted in a change of less than 10%. As a result, issuance costs paid to the Lenders in connection with the Term Loan were recorded as a reduction of the carrying amount of the debt liability and were not significant. Unamortized issuance costs as of the date of the modification were amortized to interest expense over the repayment term of Term Loan.

Both borrowings under the Original Loan Agreement and Term Loan bear interest at an annual rate equal to the greater of (a) 8.05% or (b) the sum of 6.81% plus the 30-day U.S. LIBOR rate. The borrowing under the Original Loan Agreement was repayable in monthly interest-only payments through November 2019 followed by 35 months of monthly payments of interest and principal. The borrowing under the Term Loan was repayable in monthly interest-only payments through December 31, 2020. The interest-only period was automatically extended until July 1, 2021 as a result of the Company's initiation of a Phase 2 trial for aficamten in cardiomyopathy and has been extended through December 31, 2021 as a result of the achievement of positive results in GALACTIC-HF, the trial of omecamtiv mecarbil in chronic heart failure as announced on October 8, 2020. The ultimate interest-only period will be followed by equal monthly payments of principal and interest to the maturity date in December 2023. We are required to make a final payment upon loan maturity of 6.00% of the notes payable, which we accrete over the life of the Term Loan. Our obligations under the Term Loan Agreement are secured by substantially all our current and future assets, other than our intellectual property.

Interest expense for the Term Loan was $4.8 million, $4.9 million and $5.2 million for 2021, 2020 and 2019 respectively. As of December 31, 2021, the interest rate applicable to borrowings under the Term Loan was 8.05%.

Future minimum payments under the Term Loan Agreement are (in thousands):

Years ending December 31:		
2022	$	23,595
2023		30,108
Future minimum payments		53,703
Less: Interest and final payment		(8,703)
Term Loan, gross	$	45,000

The Term Loan Agreement was terminated and all amounts thereunder repaid in connection to our entry into that certain Development Funding Loan Agreement, dated January 7, 2022 (the "RP Loan Agreement"), between us and Royalty Pharma Development Funding, LLC ("RPDF"), as further described in Note 11 below. The term loan was classified as non-current in our consolidated balance sheet at December 31, 2021, because short-term obligations expected to be refinanced on a long-term basis are not expected to require the use of working capital during the ensuing fiscal year.

Convertible Notes

On November 13, 2019, the Company issued $138.0 million aggregate principal amount of 4.0% convertible senior notes due 2026 (the "2026 Notes"). The 2026 Notes are unsecured obligations and bear interest at an annual rate of 4.0% per year, payable semi-annually on May 15 and December 15 of each year, beginning May 15, 2020. The 2026 Notes are governed by an indenture between the Company and U.S. Bank National Association, as trustee. The 2026 Notes will mature on November 15, 2026, unless earlier repurchased or redeemed by the Company or converted at the option of the holders. The Company may redeem the 2026 Notes prior to the maturity date but is not required to and no sinking fund is provided for the 2026 Notes. The 2026 Notes may be converted, under certain circumstances as described below, based on an initial conversion rate of 94.7811 shares of common stock per $1,000 principal amount (which represents an initial conversion price of $10.55 per share). The conversion rate for the 2026 Notes will be subject to adjustment upon the occurrence of certain specified events. In addition, upon the occurrence of a make-whole fundamental change (as defined in the indenture), the Company will, in certain circumstances, increase the conversion rate by a number of additional shares for a holder that elects to convert its notes in connection with such make-whole fundamental change. The Company received approximately $133.9 million in net proceeds, after deducting the initial purchasers' discount, from the issuance of the 2026 Notes.

The 2026 Notes may be converted at the option of the holder under any of the following circumstances: (1) during any calendar quarter commencing after the calendar quarter ending on March 31, 2020 (and only during such calendar quarter), if the last reported sale price of the Company's common stock for at least 20 trading days (whether or not consecutive) during a period of 30 consecutive trading days ending on, and including, the last trading day of the immediately preceding calendar quarter exceeds 127.5% of the last reported sale price of the Company's common stock on November 7, 2019; (2) during the 5 consecutive business days immediately after any 10 consecutive trading day period (such 10 consecutive trading day period, the "measurement period") if the trading price per $1,000 principal amount of 2026 Notes for each trading day of the measurement period was less than 98% of the product of the last reported sale price per share of the Company's common stock on such trading day and the conversion rate on such trading day; (3) upon the occurrence of certain corporate events or distributions on the Company's common stock; (4) if the Company calls the 2026 Notes for redemption; and (5) at any time from, and including, July 15, 2026 until the close of business on the scheduled trading day immediately before the maturity date, November 15, 2026. The Company will settle conversions by paying or delivering, as applicable, cash, shares of the Company's common stock, or a combination of cash and shares of the Company's common stock, at the Company's election, based on the applicable conversion rate.

The 2026 Notes will be redeemable, in whole or in part, at the Company's option at any time, and from time to time, on or after November 20, 2023 and, in the case of any partial redemption, on or before the 60th scheduled trading day before the maturity date, at a cash redemption price equal to the principal amount of the 2026 Notes to be redeemed, plus accrued and unpaid interest, if any, to, but excluding, the redemption date but only if the last reported sale price per share of the Company's common stock exceeds 130% of the conversion price on (1) each of at least 20 trading days, whether or not consecutive, during the 30 consecutive trading days ending on, and including, the trading day immediately before the date the Company sends the related redemption notice; and (2) the trading day immediately before the date the Company sends such notice. If a "fundamental change" (as defined in the indenture) occurs, then, subject to certain exceptions, holders may require the Company to repurchase their 2026 Notes at a cash repurchase price equal to the principal amount of the 2026 Notes to be repurchased, plus accrued and unpaid interest, if any, to, but excluding, the fundamental change repurchase date.

In accounting for the issuance of the 2026 Notes, the Company separated the 2026 Notes into liability and equity components. The carrying amount of the liability component of approximately $84.2 million was calculated by using a discount rate of 12.0%, which was estimated to be the Company's borrowing rate on the date of the issuance of the notes for a similar debt instrument without the conversion feature. The carrying amount of the equity component of approximately $49.5 million, representing the conversion option, was determined by deducting the fair value of the liability component from the par value of the 2026 Notes. The equity component of the 2026 Notes is included in additional paid-in capital in the consolidated balance sheets and is not remeasured as long as it continues to meet the conditions for equity classification. The difference between the principal amount of the 2026 Notes and the liability component (the "debt discount") is amortized to interest expense using the effective interest method over the term of the 2026 Notes.

Debt issuance costs for the issuance of the 2026 Notes were approximately $5.0 million, consisting of initial purchasers' discount and other issuance costs. In accounting for the transaction costs, the Company allocated the total amount incurred to the liability and equity components using the same proportions as the proceeds from the 2026 Notes. Transaction costs attributable to the liability component were approximately $3.1 million, were recorded as debt issuance cost (presented as contra debt in the consolidated balance sheet) and are being amortized to interest expense over the term of the 2026 Notes. The transaction costs attributable to the equity component were approximately $1.9 million and were netted with the equity component in stockholders' equity. As of December 31, 2021, unamortized debt issuance cost for the 2026 Notes were $2.5 million.

Interest expense recognized on the 2026 Notes for 2021, 2020 and 2019 (in thousands) is as follows:

	Years Ended December 31,		
	2021	2020	2019
Contractual interest expense	$ 5,520	$ 5,520	$ 721
Accretion of debt discount	5,907	5,246	673
Accretion of debt issuance costs	59	52	6
Total interest costs recognized	$ 11,486	$ 10,818	$ 1,400

The effective interest rate on the liability component of the 2026 Notes was 12.5% for the year ended December 31, 2021, which remains unchanged from the date of issuance. The remaining unamortized debt discount was $40.1 million as of December 31, 2021 and will be amortized over approximately 4.9 years. If the 2026 Notes were to be converted on December 31, 2021, the holders of the 2026 Notes would receive common shares of 16.7 million with an aggregate value of $760.0 million based on the Company's closing stock price of $45.58 as of December 31, 2021. The if-converted value of the 2026 Notes exceeded its principal amount by $622.0 million as of December 31, 2021.

Capped Call Transactions

In connection with the offering of the 2026 Notes, the Company entered into privately-negotiated capped call transactions with one of the underwriters in the offering or its affiliate. The Company used approximately $13.4 million of the net proceeds from the offering of the 2026 Notes to pay the cost of the capped call transactions. The capped call transactions are expected generally to reduce potential dilution to the Company's common stock upon any conversion of the 2026 Notes and/or offset any cash payments the Company is required to make in excess of the principal amount of converted 2026 Notes, as the case may be, in the event that the market value per share of the Company's common stock, as measured under the terms of the capped call transactions at the time of exercise, is greater than the strike price of the capped call transactions (which initially corresponds to the initial conversion price of the 2026 Notes, and is subject to certain adjustments), with such reduction and/or offset subject to a cap initially equal to approximately $14.07 per share (which represents a premium of approximately 70% over the last reported sale price of the Company's common stock on November 7, 2019), subject to certain adjustments. The capped call transactions are separate transactions, entered into by the Company and are not part of the terms of the 2026 Notes.

Given that the transactions meet certain accounting criteria, the convertible note capped call transactions are recorded in stockholders' equity, and they are not accounted for as derivatives and are not remeasured each reporting period. As of December 31, 2021, the Company had not purchased any shares under the convertible note capped call transactions.

Note 7 — Liabilities Related to Revenue Participation Right Purchase Agreements

We have a number of revenue participation right purchase agreements in place, including the Royalty Purchase Agreement entered into with RTW Royalty Holdings (the "RTW Royalty Purchase Agreement") in 2020 and the Royalty Purchase Agreement (the "RP OM RPA") entered into with RPI Finance Trust ("RPFT") in 2017.

Royalty Purchase Agreement with RPFT

In February 2017, we entered into the RP OM RPA pursuant to which we sold a portion of our right to receive royalties from Amgen on future net sales of omecamtiv mecarbil to RPFT for a one-time payment of $90 million, which is non-refundable even if omecamtiv mecarbil is never commercialized. Concurrently, we entered into a common stock purchase agreement with RPFT through which RPFT purchased 875,656 shares of the Company's common stock for $10.0 million. We allocated the consideration and issuance costs on a relative fair value basis to our liability to RPFT related to sale of future royalties under the RP OM RPA (the "RP OM Liability") and the common stock sold to RPFT, which resulted in the RP OM Liability being initially recognized at $92.3 million. The RP OM RPA provides for the sale of a royalty to RPFT of 4.5% on worldwide net sales of omecamtiv mecarbil, subject to a potential increase of up to an additional 1% under certain circumstances.

As a result of the termination of the Amgen Agreement and pursuant to our obligations under the RP OM RPA, we and RPFT entered into Amendment No. 1 to Royalty Purchase Agreement, dated January 7, 2022 to preserve RPFT's rights under the RP OM RPA by providing for direct payments by us to RPFT of 4.5% of our and our affiliates and licensees worldwide net sales of omecamtiv mecarbil, subject to a potential increase of up to an additional 1% under certain circumstances (if FDA approves omecamtiv mecarbil on its target PDUFA date of November 30, 2022, the royalty owed to RPFT will be 4.9% of worldwide net sales of omecamtiv mecarbil). Amendment No. 1 to Royalty Purchase Agreement, dated January 7, 2022 had no impact on the original accounting for the $92.3 million associated with the RP OM Liability established in February 2017.

We account for the RP OM Liability as a liability primarily because we have significant continuing involvement in generating the related revenue stream from which the liability will be repaid. If and when omecamtiv mecarbil is commercialized and royalties become due, we will recognize the portion of royalties paid to RPFT as a decrease to the RP OM Liability and a corresponding reduction in cash.

The carrying amount of the RP OM Liability is based on our estimate of the future royalties to be paid to RPFT over the life of the arrangement as discounted using an imputed rate of interest. The excess of future estimated royalty payments over the $92.3 million of allocated proceeds, less issuance costs, is recognized as non-cash interest expense using the effective interest method. The imputed rate of interest on the unamortized portion of the RP OM Liability was approximately 10% as of December 31, 2021 and 15% as of December 31, 2020.

We periodically assess the amount and timing of expected royalty payments using a combination of internal projections and forecasts from external sources. To the extent such payments are greater or less than our initial estimates or the timing of such payments is materially different than its original estimates, we will prospectively adjust the amortization of the RP OM Liability and the effective interest rate.

There are a number of factors that could materially affect the amount and timing of royalty payments, most of which are not within our control. The RP OM Liability is recognized using significant unobservable inputs. These inputs are derived using internal management estimates developed based on third party data, including data historically provided by Amgen, and reflect management's judgements, current market conditions surrounding competing products, and forecasts. The significant unobservable inputs include the estimated patient population, estimated selling price, estimated peak sales and sales ramp, the expected term of the royalty stream, timing of the expected launch and its impact on the royalty rate as well as the overall probability of success. A significant change in unobservable inputs could result in a material increase or decrease to the effective interest rate of the RP OM Liability.

During the year ended December 31, 2021, we updated our analyses for the amount and timing of sales and royalties associated with omecamtiv mecarbil as a result of ongoing market research in the U.S. and to reflect other adjustments in connection with our anticipated commercialization plans. Our estimates regarding the amount of future royalty payments decreased and the time periods within which we anticipated that such payments will be due changed. Each of these adjustments is accounted for on a prospective basis in our liability calculation and resulted in a decline in our imputed interest rate and noncash interest expenses from 15% and $22.7 million in 2020 to 10% and $12.9 million in 2021, respectively. In 2021, the change in estimate had no impact on revenue and reduced the net loss by $11.5 million. The change in accounting estimate reduced net loss per share by $0.15 in 2021. We review our assumptions on a quarterly basis and our estimates may change in the future as we refine and reassess our assumptions.

Changes to the RP OM Liability related to the sale of future royalties are as follows (in thousands):

	2021	2020
Beginning balance, January 1	$ 166,068	$ 143,276
Interest accretion	12,892	22,713
Amortization of issuance costs	112	79
Ending balance, December 31	$ 179,072	$ 166,068

We recognized $12.9 million, $22.7 million and $20.7 million in non-cash interest expense in 2021, 2020 and 2019, respectively, related to the RP OM RPA.

On January 7, 2022 we announced that we had sold a revenue interest in our net sales of pharmaceutical products containing aficamten to RPI ICAV under the RP Aficamten RPA, as further described in Note 11 below.

Note 8 — Stockholders' Equity

Public Offering of Common Stock

In July 2021, we closed an underwritten public offering of 11,500,000 shares of our common stock at a public offering price of $27.50, which included the exercise in full by the underwriters of their option to purchase up to 1,500,000 shares of our common stock at the same price. The gross proceeds were $316.3 million and net proceeds were approximately $296.9 million, after deducting the applicable underwriting discounts and commissions.

Equity Incentive Plan

Our amended and restated 2004 Equity Incentive Plan (the "2004 Plan") provides for us to grant incentive stock options, nonstatutory stock options, restricted stock, stock appreciation rights, restricted stock units, performance shares and performance units to employees, directors and consultants. We may grant options for terms of up to ten years at prices not lower than 100% of the fair market value of our common stock on the date of grant. Options granted to new employees generally vest 25% after one year and monthly thereafter over a period of four years. Options granted to existing employees generally vest monthly over a period of four years.

In May 2019, our stockholders approved an amendment to the Amended and Restated 2004 Equity Incentive Plan (the "2004 Plan") to increase the number of authorized shares reserved for issuance under the 2004 Plan by 4.1 million shares. In May 2020, our board of directors approved an amendment to the 2004 Plan to increase the number of authorized shares reserved for issuance under the 2004 Plan by 0.8 million shares for inducement grants to new employees. In May 2021, our stockholders approved an amendment to the 2004 Plan to increase the number of authorized shares reserved for issuance under the 2004 Plan by 5.2 million shares to 21.5 million shares (excluding an additional 0.8 million then authorized for issuance as inducement grants to new employees). In August 2021, the Company's board of directors approved another amendment to the 2004 plan and increased the number of shares reserved for issuance for inducement grants to new employees from the 0.8 million to 1.9 million. We started granting inducement grants in September 2020. As of December 31, 2021, the total authorized shares under the 2004 Plan of 5.7 million were available for grant.

Stock option activity in 2021 was as follows:

	Stock Options Outstanding	Weighted Average Exercise Price per Share	Weighted Average Remaining Contractual Life (in years)	Aggregate Intrinsic Value (in millions)
Balance at December 31, 2019	7,759,012	$ 8.59		
Granted	1,944,562	15.59		
Exercised	(967,571)	8.27		
Forfeited	(234,054)	16.06		
Balance at December 31, 2020	8,501,949	$ 10.02		
Granted	2,513,350	22.43		
Exercised	(1,346,194)	9.01		
Forfeited	(296,146)	14.56		
Balance at December 31, 2021	9,372,959	$ 13.35	6.8	$ 302.1
Exercisable at December 31, 2021	5,828,902	$ 9.99	5.6	$ 207.4

We expect all outstanding options to vest. The intrinsic value of stock options exercised, calculated based on the difference between the market value at the date of exercise and the exercise price, was $29.3 million for 2021, $14.0 million for 2020 and $0.5 million for 2019. The intrinsic value of stock options outstanding at December 31, 2021 was $302.1 million.

Restricted stock unit (“RSU”), including Performance Stock Units (“PSUs”), activity in 2021 was as follows:

	Number of Restricted Stock Units	Weighted Average Award Date Fair Value per Share
Balance at December 31, 2019	839,075	$ 7.49
Granted	731,225	14.40
Exercised	(435,450)	7.72
Forfeited	(18,208)	10.37
Balance at December 31, 2020	1,116,642	$ 11.88
Granted	1,093,450	21.69
Exercised	(606,240)	11.13
Forfeited	(189,025)	21.32
Balance at December 31, 2021	1,414,827	$ 18.52

RSUs generally vest annually over two to three years. For 2021, the fair value of RSUs vested, calculated based on the units vested multiplied by the closing price of our common stock on the date of vesting, was $11.6 million.

Performance Stock Units

In May 2021, the Compensation and Talent Committee of the Company’s Board of Directors (“the Compensation Committee”) granted a total of 375,000 Performance Stock Units (“PSUs”) to certain employees with a weighted average grant date fair value of $25.32 per unit. The fair value of the PSUs was determined on the grant date based on the fair value of the Company’s common stock at such time. The PSUs consist of two equal tranches with 50% of each tranche vesting upon achieving certain performance criteria and 50% vesting at the one-year anniversary of such achievement provided the recipient has been continuously employed by the Company. The first tranche vests upon certification by the Compensation Committee that the new drug application (“NDA”) for omecamtiv mecarbil has been filed and accepted by the U.S. Food and Drug Administration (“FDA”) and the second tranche vests upon certification by the Compensation Committee that the FDA approval of the NDA is with an approved label that is consistent with the expectations underlying the Company’s commercial launch plans for omecamtiv mecarbil in effect immediately prior to such approval. As the FDA accepted our NDA for omecamtiv mecarbil subsequent to the year ended 2021, it resulted in change of estimate of the probability of meeting the performance conditions for the PSU grants during the fourth quarter of 2021. The previous estimate was based on assumptions that were the best available information at the time. The change of estimate resulted in a cancellation of 91,250 PSUs and decrease of $0.5 million in stock-based compensation expense for the year ended December 31, 2021.

In 2021, the Company recognized expense of $1.4 million for the first tranche of PSUs. No expense has been recognized for the second tranche. As of December 31, 2021, there were 273,750 PSUs outstanding and $0.9 million unamortized stock-based compensation, which may vest and recognized with respect to the achievement of the performance goals and service period. The Company will assess the likelihood of achieving the performance conditions quarterly and the expense recognized will be adjusted accordingly.

Employee Stock Purchase Plan

Under our 2015 Employee Stock Purchase Plan (the "ESPP"), employees may purchase common stock up to a specified maximum amount at a price equal to 85% of the fair market value at certain plan-defined dates. In May 2020, the Company's stockholders approved an amendment to the ESPP to increase the number of common stock shares reserved for issuance under the ESPP by 0.5 million shares.

We issued 108,780 shares at an average price of $16.33 per share during 2021, 134,684 shares at an average price of $11.21 per share in 2020, and 172,113 shares at an average price of $6.43 per share in 2019 pursuant to the ESPP. At December 31, 2021, we have 338,040 shares of common stock reserved for issuance under the ESPP.

Stock-Based Compensation Expense

We use the Black-Scholes option pricing model to determine the fair value of stock option grants to employees and directors and employee stock purchase plan shares. The fair value of share-based payments was estimated on the date of grant based on the following assumptions:

	Year Ended December 31, 2021		Year Ended December 31, 2020		Year Ended December 31, 2019	
	Options	ESPP	Options	ESPP	Options	ESPP
Risk-free interest rate	0.58% to 1.28%	0.05%	0.42% to 1.8%	0.11% to 1.8%	1.6% to 3.0%	1.8% to 2.4%
Volatility	66% to 67%	66% to 67%	74% to 75%	74% to 75%	73% to 76%	73% to 76%
Expected term in years	6.4 to 6.5	0.5	6.5 to 6.6	0.5	6.5	0.6
Expected dividend yield	0%	0%	0%	0%	0%	0%

We use U.S. Treasury zero-coupon issues with remaining terms similar to the expected terms of the options for the risk-free interest rate. We use our own volatility history based on its stock's trading history and our own historical exercise and forfeiture activity to estimate expected term for option grants. We do not anticipate paying dividends in the foreseeable future and use an expected dividend yield of zero. We do not estimate forfeitures in our stock-based compensation.

We measure compensation expense for restricted stock units at fair value on the date of grant and recognize the expense over the expected vesting period. We recognize stock-based compensation expense on a ratable basis over the requisite service period, generally the vesting period of the award for share-based awards.

Stock-based compensation expense for 2021 and 2020 was as follows (in thousands):

	Years Ended December 31,		
	2021	2020	2019
Research and development	$ 10,463	$ 6,949	$ 4,260
General and administrative	16,369	10,671	6,499
	$ 26,832	$ 17,620	$ 10,759

Stock-based compensation expense for share-based awards to non-employees was $0.2 million in 2021, 2020, and 2019.

As of December 31, 2021, we expect to recognize $44.5 million of unrecognized compensation cost related to unvested stock options over a weighted-average period of 2.7 years, $11.5 million of unrecognized compensation cost related to unvested restricted stock over a weighted-average period of 1.4 years, and $0.9 million of unrecognized compensation cost related to unvested PSUs, which may vest and recognized with respect to the achievement of the performance goals and service period.

Warrants

Pursuant to the Term Loan agreement described in Note 6 - Debt, we issued a warrant with an exercise price of $9.76 per share to purchase 23,065 shares of our common stock in 2019. The warrant was fully exercisable and expires in May 2029. As of December 31, 2019, warrants to purchase 165,424 shares of our common stock with a weighted average exercise price of $7.25 per share were outstanding. All outstanding warrants are fully exercisable and expire ten years after issuance.

During the first quarter of 2020, in connection with the Term Loan Agreement further described in Note 6 - Debt, we issued a warrant with an exercise price of $10.42 per share to purchase 21,595 shares of our common stock. The warrant was issued in connection with achieving the interest-only extension milestone 1 in the Term Loan Agreement. The warrant was fully exercisable and expires in January 2030. The $0.2 million fair value of the warrant related to the Term Loan was recorded as interest expense during the first quarter of 2020.

In July 2020, OTA LLC, an assignee of Oxford, exercised 51,214 warrants with a strike price of $6.59 per share, 48,892 warrants with a strike price of $6.903 per share, and 25,352 warrants with a strike price of $7.10 per share and elected the cashless settlement method. Accordingly, in July 2020, we issued to OTA LLC a total of 95,932 shares of our common stock.

In October 2020, OTA LLC exercised 13,839 warrants with a strike price of $9.755 per share and elected cashless settlement method. Accordingly, in October 2020, we issued OTA LLC a total of 8,958 shares of our common stock.

As of December 31, 2021, we had outstanding warrants issued pursuant to the Original Loan Agreement and Term Loan Agreement with a weighted average exercise price of $9.12 per share to purchase 47,722 shares of our common stock.

Committed Equity Offering

In 2019, we terminated our original Controlled Equity Offering℠ Sales Agreement (the "ATM Facility") with Cantor Fitzgerald & Co. ("Cantor") for the sale, in our sole discretion, of shares of our common stock, having an aggregate offering price of up to $75.0 million through Cantor and we entered into a new sales agreement (the "New ATM Facility") with Cantor, which provides for the sale, in our sole discretion, of shares of our common stock having an aggregate offering price of up to $85.0 million through Cantor, as our sales agent. The issuance and sale of these shares by us pursuant to the New ATM Facility are deemed "at the market" offerings and are registered under the Securities Act of 1933, as amended. We pay a commission of up to 3.0% of gross sales proceeds of any common stock sold under the New ATM Facility. As of 2019, we issued 3,984,849 shares of common stock for net proceeds of $36.2 million under the New ATM Facility.

Claims Settlement

In the first quarter of 2020, we received $2.2 million from a claims settlement with certain institutional investors that were beneficial owners of our common stock related to the disgorgement of short swing profits pursuant to Section 16(b) of the Securities Exchange Act of 1934, as amended. This settlement was recognized in equity as additional paid-in capital.

Note 9 — Commitments and Contingencies

Operating Leases

In May 2021, we amended the lease agreement for buildings 250, 256 and 280 East Grand Avenue, South San Francisco, California for our existing facilities and extended the lease term until June 30, 2022, which was accounted for as a lease modification in accordance with Topic 842. Pursuant to such guidance, the Company remeasured the modified lease using the revised term as of the modification date. Adjustments were made to reflect the remeasured liability with the offset to the right-of-use asset. The lease includes rental payments and payment of certain operating expenses. Under the lease terms, we have minimum rental fee payment obligations of $0.5 million per month through the remaining term.

As of December 31, 2021, the remaining lease term is 0.5 years and the discount rate used to determine the operating lease liability was 6.8% for buildings 250, 256 and 280 East Grand Avenue, South San Francisco, California.

In July 2019, we entered into a lease agreement for approximately 234,892 square feet of office and laboratory space at a facility located in South San Francisco, California and in May 2020, January 2021 and November 2021, we entered into first, second and third amendments to the lease (collectively the "Oyster Point Lease").

The Oyster Point Lease commenced on March 31, 2021 and upon commencement, we recognized a right-of-use asset of $77.9 million, a short-term lease liability of $3.7 million and a long-term lease liability of $85.3 million. The long-term lease liability includes $11.1 million of tenant improvement reimbursements as of March 31, 2021. The Oyster Point Lease had an initial expiration date of September 30, 2033 and we have two consecutive five-year options to extend the lease. The options to extend the lease term were not included as part of the right-of-use asset or lease liability as the exercise of the options were not reasonably assured at the inception of the lease. During the third quarter of 2021, we amended the lease payment schedule and will be required to start making rent payments in January 2022. The lease term is extended until October 31, 2033. The amendment was accounted for as a lease modification in accordance with Topic 842.

As of December 31, 2021, the remaining lease term of the Oyster Point Lease is 11.8 years and the discount rate used to determine the related lease liability was 10.1%. We paid a total security deposit of $5.1 million in December 2019 and December 2020. The landlord will provide a tenant improvement allowance of $43.6 million in aggregate for costs relating to the initial design and construction of the improvements. As of December 31, 2021, the total commitment of undiscounted lease payments for the Oyster Point Lease was $230.5 million.

During the fourth quarter of 2021, we officially relocated from our existing headquarters located at 250, 256, and 280 East Grand Avenue, South San Francisco to our new facilities at Oyster Point. As a result of the relocation, we considered ceasing use of the existing headquarters, which triggered an impairment assessment. In connection with this assessment, we recorded an impairment loss of $2.8 million, consisting of right-of-use assets of the existing headquarters, which is included in operating expenses on the consolidated statement of operations for the year ended December 31, 2021. We are subject to the fixed rental fee payments for the existing headquarters through the remaining term until June 2022.

As of December 31, 2021, the weighted average remaining lease term for the operating leases is 11.7 years and the weighted average discount rate used to determine the operating lease liability is 10.0%

Cash paid for amounts included in the measurement of operating lease liabilities for the years ended December 31, 2021 and 2020 was $6.1 million and $6.7 million, respectively, and was included in net cash used in operating activities in our consolidated statements of cash flows.

Finance Leases

During the third quarter of 2021, we entered into a master lease agreement for laboratory equipment leases that was partially commenced in the fourth quarter of 2021. The leases have an initial term of 3 years and are expected to commence through the second quarter of 2022. The master lease agreement provides a purchase option with a bargain purchase price, which we expect to exercise at the end of the term. The Company classified the leases as finance leases.

Finance leases are accounted for on the consolidated balance sheets with right-of-use assets and lease liabilities recognized in property and equipment, other current liabilities, and other non-current liabilities, respectively. The finance lease cost is recognized as a combination of the amortization expense for the right-of-use assets calculated on a straight-line basis over the five-year estimated useful life for laboratory equipment and interest expense for the outstanding lease liabilities using the determined discount rates. As of December 31, 2021, we have recognized finance lease right-of-use assets of $1.4 million, short-term finance lease liabilities of $0.5 million, and long-term finance lease liabilities of $0.8 million.

As of December 31, 2021, the weighted average remaining lease term for the finance leases is 4.9 years and the weighted average discount rate used to determine the finance lease liabilities is 9.47%.

There was no cash paid for amounts included in the measurement of finance lease liabilities for the year ended December 31, 2021.

The undiscounted future non-cancellable lease payments under all our operating and finance lease agreements as of December 31, 2021 is as follows (in thousands):

Years ending December 31:	Operating Leases	Finance Leases
2022	$ 15,611	$ 513
2023	17,060	479
2024	17,620	479
2025	18,199	—
2026	18,799	—
Thereafter	146,193	—
Total undiscounted future lease payments	233,482	1,471
Less: Present value adjustments	(106,390)	(166)
Total lease liability	$ 127,092	$ 1,305

The lease obligations for the finance leases that have not yet commenced as of December 31, 2021 is approximately $1.9 million, which are not included in the table above. These leases will commence through the second quarter of 2022 and expire in 2025.

Rent expenses for the operating leases and finance leases were $23.1 million, $5.7 million and $5.1 million for 2021, 2020 and 2019, respectively.

Note 10 — Income Taxes

We did not record an income tax provision in 2021, 2020 and 2019 because we had net taxable losses. Our significant jurisdictions are the United States and California.

The following reconciles the statutory federal income tax rate to our effective tax rate:

	Years Ended December 31,		
	2021	2020	2019
Tax at federal statutory tax rate	21%	21%	21%
State tax, net of federal benefits	0%	1%	3%
Change in state effected rates	(1)%	(2)%	4%
Tax credits, net	3%	3%	3%
Change in valuation allowance	(24)%	(23)%	(30)%
Stock-based compensation	2%	1%	(1)%
Other	(1)%	(1)%	0%
Total	0%	0%	0%

CYTOKINETICS, INCORPORATED

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

Deferred tax assets, net, reflecting the net tax effect of temporary differences between the carrying amounts of assets and liabilities for financial reporting purposes and the amounts used for income tax purposes, were as follows (in thousands):

	As of December 31,	
	2021	2020
Deferred tax assets:		
Net operating loss carryforwards	$ 181,977	$ 162,514
Tax credits	77,366	71,976
Liability related to sale of future royalties	38,302	36,989
Reserves and accruals	15,409	10,876
Capitalized R&D	1,115	2,370
Long-term lease liability	26,223	718
Deferred revenue	18,608	—
Depreciation and amortization	—	746
Total noncurrent deferred tax assets	359,000	286,189
Deferred tax liabilities:		
Depreciation and amortization	(7,664)	—
Accounting method change	—	(927)
Operating lease right-of-use assets	(15,643)	(651)
Convertible notes	(8,296)	(9,832)
Total noncurrent deferred tax liabilities	(31,603)	(11,410)
Less: Valuation allowance	(327,397)	(274,779)
Net deferred tax assets	$ —	$ —

Realization of deferred tax assets is dependent upon future earnings, if any, the timing and amount of which are uncertain. Based upon the weight of available evidence, which includes our historical operating performance, reported cumulative net losses since inception, expected future losses, and difficulty in accurately forecasting our future results and an assessment of both positive and negative evidence when determining whether it is more likely than not that deferred tax assets are recoverable, we maintained a full valuation allowance on the net deferred tax assets as of December 31, 2021 and 2020. The valuation allowance increased by $52.6 million in 2021 and increased by $28.9 million in 2020.

At December 31, 2021 federal NOL carryforwards were $753.8 million and apportioned state NOL carryforwards before federal benefits were $323.1 million. If not utilized, federal and state operating loss carryforwards incurred prior to 2018 will begin to expire in various amounts beginning 2022 and 2028, respectively.

At December 31, 2021, tax credits of $73.6 million and $17.8 million for federal and state income tax purposes, respectively consisted of Research and Development Credits and Orphan Drug Credits. If not utilized, the federal carryforwards will expire in various amounts beginning in 2021. California based credit carryforwards do not expire.

In general, under Section 382 of the Internal Revenue Code (“Section 382”), a corporation that undergoes an ‘ownership change’ is subject to limitations on its ability to utilize its pre-change net operating losses and tax credits to offset future taxable income. We do not believe it has experienced an ownership change since 2006, however, a portion of its NOLs and tax credits prior to 2007 will be subject to limitations under Section 382.

Activity related to our gross unrecognized tax benefits were (in thousands):

	Years Ended December 31,		
	2021	2020	2019
Balance at the beginning of the year	$ 10,522	$ 9,922	$ 9,475
Decrease related to prior year tax positions	(29)	(3)	—
Increase related to current year tax positions	802	603	447
Balance at the end of the year	$ 11,295	$ 10,522	$ 9,922

We are subject to income tax examination for all fiscal years with unutilized NOLs and tax credit carryforwards. Included in the balance of unrecognized tax benefits as of December 31, 2021, 2020 and 2019 are $10.3 million, $9.6 million and $9.1 million of tax benefits, respectively, that, if recognized, would result in adjustments to other tax accounts, primarily deferred taxes.

On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security (CARES) Act was signed into law making several changes to the Internal Revenue Code, including provisions addressing the carryback of net operating losses for specific periods, refunds of alternative minimum tax credits, temporary modifications to limitations placed on the tax deductibility of net interest expenses, and technical amendments for qualified improvement property. Additionally, the CARES Act provides for refundable employee retention tax credits and the deferral of the employer-paid portion of Social Security taxes. For the years ended December 31, 2021 and 2020, respectively, the Company's income tax provision was not significantly impacted by the CARES Act. The Company will continue to closely monitor any effects from future legislation.

Note 11 — Subsequent Events

2022 Royalty Pharma Transactions

On January 7, 2022, we announced that we had entered into the RP Loan Agreement and the RP Aficamten RPA with RPDF and RPI ICAV respectively, each of which are affiliated with Royalty Pharma International plc.

Under the RP Loan Agreement, we are entitled to receive up to $300.0 million in term loans, $50.0 million of which was disbursed to us on closing and the remaining $250.0 available to us upon our satisfaction of customary disbursement conditions and certain development conditions by specific deadlines, as follows:

- $50.0 million of tranche 2 term loans during the one year period following the receipt on or prior to December 31, 2022 of marketing approval from FDA of omecamtiv mecarbil;
- $25.0 million of tranche 3 term loans during the one year period following the commercial availability of a diagnostic test measuring levels of omecamtiv mecarbil to support the final FDA label language applicable to such drug, subject to such commercial availability and the conditions to the tranche 2 term loans having occurred on or prior to December 31, 2022;
- $75.0 million of tranche 4 term loans during the one year period following the receipt on or prior to September 30, 2024 of positive results from SEQUOIA-HCM, the Phase 3 trial for aficamten; and
- $100.0 million of tranche 5 term loans during the one year period following the acceptance by the FDA on or prior to March 31, 2025 of an NDA for aficamten, subject to the conditions to the tranche 4 term loans having occurred on or prior to September 30, 2024.

Each term loan under the RP Loan Agreement matures on the 10 year anniversary of the funding date for such term loan and is repayable in quarterly installments of principal, interest and fees commencing on the last business day of the seventh full calendar quarter following the calendar quarter of the applicable funding date for such Term Loan, with the aggregate amount payable in respect of each term loan (including interest and other applicable fees) equal to 190% of the principal amount of the term loan (such amount with respect to each Term Loan, "Final Payment Amount").

We may prepay the term loans in full (but not in part) at any time at our option by paying an amount equal to the unpaid portion of Final Payment Amount for the outstanding Term Loans; provided that if the conditions for either the tranche 4 term loans or the tranche 5 term loans have been met, we must have borrowed at least $25 million principal amount of the tranche 4 or 5 term loans. In addition, the term loans under the RP Loan Agreement are repayable in full at the option of either us or the lender in an amount equal to the unpaid portion of Final Payment Amount for the outstanding term loans upon a change of control of Cytokinetics.

In addition, on January 7, 2022, we entered into the RP Aficamten RPA with RPI ICAV, pursuant to which RPI ICAV purchased rights to certain revenue streams from net sales of pharmaceutical products containing aficamten by us, our affiliates and our licensees in exchange for up to $150.0 million in consideration, $50.0 million of which was paid on the closing date, $50.0 million of which is payable following the initiation of the first pivotal trial in oHCM for aficamten and $50.0 million of which is payable following the initiation of the first pivotal clinical trial in nHCM for aficamten. The RP Aficamten ARPA also provides that the parties will negotiate terms for additional funding if we achieve proof of concept results in certain other indications for aficamten, with a reduction in the applicable royalty if we and RPI ICAV fail to agree on such terms in certain circumstances.

Pursuant to the RP Aficamten RPA, RPI ICAV purchased the right to receive a percentage of net sales equal to 4.5% for annual worldwide net sales of pharmaceutical products containing aficamten up to $1 billion and 3.5% for annual worldwide net sales of pharmaceutical products containing aficamten in excess of $1 billion, subject to reduction in certain circumstances.

Commensurate with our entry into the RP Loan Agreement and RP Aficamten RPA, we terminated the Term Loan Agreement with the Lenders and repaid all amounts outstanding thereunder.

ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE

None.

ITEM 9A. CONTROLS AND PROCEDURES

Evaluation of Disclosure Controls and Procedures:

We maintain disclosure controls and procedures that are designed to ensure that information required to be disclosed in our reports under the Securities Exchange Act of 1934, as amended, or the Exchange Act, is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms and that such information is accumulated and communicated to our management, including our Chief Executive Officer, Chief Financial Officer and Chief Accounting Officer, as appropriate, to allow for timely decisions regarding required disclosure. In designing and evaluating the disclosure controls and procedures, we recognize that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objectives, and in reaching a reasonable level of assurance, we are required to apply our judgment in evaluating the cost-benefit relationship of possible controls and procedures.

As required by Rule 13a-15(b) under the Exchange Act, our management, under the supervision and with the participation of our principal executive officer and principal financial officer, has evaluated the effectiveness of the design and operation of our disclosure controls and procedures (as such term is defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act) as of December 31, 2021. Based on such evaluation, our principal executive officer and principal financial officer have concluded that, as of December 31, 2021, our disclosure controls and procedures were effective at the reasonable assurance level.

Management's Annual Report on Internal Control Over Financial Reporting:

Our management is responsible for establishing and maintaining adequate internal control over financial reporting, as such term is defined in Exchange Act Rules 13a-15(f) and 15d-15(f). Under the supervision and with the participation of our management, including our Chief Executive Officer, Chief Financial Officer and Chief Accounting Officer, we conducted an evaluation of the effectiveness of our internal control over financial reporting as of December 31, 2021 based on the framework in Internal Control — Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (2013 Framework) (the COSO criteria). Based on the above evaluation, our management concluded that our internal control over financial reporting was effective as of December 31, 2021.

Our independent registered public accounting firm, Ernst & Young LLP, has audited the financial statements included in this Annual Report and has issued a report on the effectiveness of our internal control over financial reporting. The report of Ernst & Young LLP is included below.

Changes in Internal Control over Financial Reporting

There were no other changes in our internal controls over financial reporting identified in connection with the evaluation required by Rules 13a-15(d) and 15d-15(d) of the Exchange Act that occurred during the fiscal quarter ended December 31, 2021 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The Board of Directors and Stockholders
Cytokinetics, Incorporated

Opinion on Internal Control Over Financial Reporting

We have audited Cytokinetics, Incorporated's internal control over financial reporting as of December 31, 2021, based on criteria established in Internal Control—Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (2013 framework) (the COSO criteria). In our opinion, Cytokinetics, Incorporated (the Company) maintained, in all material respects, effective internal control over financial reporting as of December 31, 2021, based on the COSO criteria.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the 2021 consolidated financial statements of the Company and our report dated February 25, 2022 expressed an unqualified opinion thereon.

Basis for Opinion

The Company's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting included in the accompanying Management's Annual Report on Internal Control Over Financial Reporting. Our responsibility is to express an opinion on the Company's internal control over financial reporting based on our audit. We are a public accounting firm registered with the 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 effective internal control over financial reporting was maintained in all material respects.

Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

Definition and Limitations of Internal Control Over Financial Reporting

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

/s/ Ernst & Young LLP

Redwood City, California
February 25, 2022

ITEM 9B. OTHER INFORMATION

None.

ITEM 9C. DISCLOSURE REGARDING FOREIGN JURISDICTIONS THAT PREVENT INSPECTIONS

None.

PART III

ITEM 10. DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE

The information regarding our directors and executive officers, our director nominating process and our audit committee is incorporated by reference from our definitive Proxy Statement for our 2021 Annual Meeting of Stockholders, where it appears under the headings “Board of Directors” and “Executive Officers.”

Section 16(a) Beneficial Ownership Reporting Compliance

The information regarding our Section 16 beneficial ownership reporting compliance is incorporated by reference from our definitive Proxy Statement described above, where it appears under the headings “Section 16(a) Beneficial Ownership Reporting Compliance.”

Code of Ethics

We have adopted a Code of Ethics that applies to all our directors, officers and employees. We publicize the Code of Ethics through posting the policy on our website, www.cytokinetics.com. We will disclose on our website any waivers of, or amendments to, our Code of Ethics within four business days following the date of such amendment or waiver.

ITEM 11. EXECUTIVE COMPENSATION

The information required by this item is incorporated by reference from our definitive Proxy Statement for our 2021 Annual Meeting of Stockholders, where it appears under the heading “Executive Compensation.”

ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS

The information required by this item is incorporated by reference from our definitive Proxy Statement for our 2021 Annual Meeting of Stockholders, where it appears under the headings “Certain Business Relationships and Related Party Transactions” and “Corporate Governance.”

ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS, AND DIRECTOR INDEPENDENCE

The information required by this item is incorporated by reference from our definitive Proxy Statement for our 2021 Annual Meeting of Stockholders, where it appears under the headings “Certain Business Relationships and Related Party Transactions” and “Board of Directors.”

ITEM 14. PRINCIPAL ACCOUNTING FEES AND SERVICES

The information required by this item is incorporated by reference from our definitive Proxy Statement for our 2021 Annual Meeting of Stockholders, where it appears under the headings “Independent Registered Public Accounting Firm Services and Fees.”

PART IV

ITEM 15. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES

a) The following documents are filed as part of this Form 10-K:

(1) Financial Statements:

Our Consolidated Financial Statements are listed in the "Index to Consolidated Financial Statements" under Part II. Item 8 of this Annual Report on Form 10-K.

(2) Financial Statement Schedules:

Financial statement schedules have been omitted in this report because they are not applicable, not required under the instructions, or the information requested is set forth in the consolidated financial statements or related notes thereto.

b) Exhibits:

EXHIBIT INDEX

Exhibit No.	Exhibits	Incorporated by Reference				Filed Herewith
		Form	File No.	Filing Date	Exh. No.	
3.1	Amended and Restated Certificate of Incorporation.	S-3	333-174869	June 13, 2011	3.1	
3.2	Certificate of Amendment of Amended and Restated Certificate of Incorporation.	10-Q	000-50633	August 4, 2011	3.2	
3.3	Certificate of Amendment of Amended and Restated Certificate of Incorporation.	8-K	000-50633	June 25, 2013	5.1	
3.4	Certificate of Amendment of Amended and Restated Certificate of Incorporation	8-K	000-50633	May 20, 2016	3.1	
3.5	Amended and Restated Bylaws.	S-1	333-112261	January 27, 2004	3.2	
4.1	Specimen Common Stock Certificate.	10-Q	000-50633	May 9, 2007	4.1	
4.2	Form of Warrant	10-Q	000-50633	August 6, 2012	4.6	
4.3	Form of Common Stock Warrant Issued Pursuant to that certain Loan and Security Agreement, dated as of October 19, 2015, by and among the Company, Oxford Finance LLC and Silicon Valley Bank	10-K	000-50633	March 3, 2016	4.6	
4.4	Form of Warrant Issuable to Oxford Finance LLC	10-Q	000-50633	August 9, 2019	4.2	
4.5	Form of Warrant Issuable to Silicon Valley Bank	10-Q	000-50633	August 9, 2019	4.3	
4.6	Base Indenture, dated November 13, 2019, between the Company and U.S. Bank National Association, as Trustee	8-K	000-50633	November 13, 2019	4.1	
4.7	First Supplemental Indenture, dated November 13, 2019, between the Company and U.S. Bank National Association, as Trustee (including the form of 4.00% Convertible Senior Note due 2026)	8-K	000-50633	November 13, 2019	4.2	
4.8	Description of Securities	10-K	000-50633	March 4, 2020	4.8	

Exhibit No.	Exhibits	Incorporated by Reference				Filed Herewith
		Form	File No.	Filing Date	Exh. No.	
10.1	Lease, dated July 24, 2019, by and between the Company and KR Oyster Point 1, LLC	10-Q	000-50633	November 1, 2019	10.52	
10.2	First Amendment to Lease, dated May 12, 2020, by and between the Company and KR Oyster Point 1, LLC	10-K	000-50633	February 26, 2021	10.59	
10.3	Second Amendment to Lease, dated January 26, 2021, by and between the Company and KR Oyster Point 1, LLC	10-K	000-50633	February 26, 2021	10.60	
10.4	Third Amendment to Lease, dated January 26, 2021, by and between the Company and KR Oyster Point 1, LLC					X
10.5	Form of Indemnification Agreement between the Company and each of its directors and executive officers	10-Q	000-50633	August 5, 2008	10.1	
10.6+	Amended and Restated Executive Employment Agreement, dated May 21, 2007, by and between the Company and Robert Blum	10-Q	000-50633	August 5, 2008	10.69	
10.7+	Form of Amendment No. 1 to Amended and Restated Executive Employment Agreements	10-K	000-50633	March 12, 2009	10.68	
10.8+	Amended and Restated 2004 Equity Incentive Plan	10-Q	000-50633	November 5, 2021	10.2	
10.9+	Amended and Restated 2015 Employee Stock Purchase Plan	DEF 14A	000-50633	March 26, 2020	Appendix A	
10.10+	Form of Option Agreement	10-K	000-50633	March 15, 2013	10.46	
10.11+	Form of Restricted Stock Unit Award Agreement	10-K	000-50633	March 15, 2013	10.47	
10.12+	Form of Executive Employment Agreement between the Company and its executive officers	10-K	000-50633	March 7, 2014	10.39	
10.13#†	License and Collaboration Agreement, dated July 14, 2020, by and between the Company and Ji Xing Pharmaceuticals Limited	10-Q/A	000-50633	March 11, 2021	10.1	
10.14	License and Collaboration Agreement, dated December 20, 2021, by and between the Company and Ji Xing Pharmaceuticals Limited.					X
10.15#	Common Stock Purchase Agreement, dated December 20, 2021, by and between the Company and RTW Master Fund, Ltd.					X

Exhibit No.	Exhibits	Incorporated by Reference				Filed Herewith
		Form	File No.	Filing Date	Exh. No.	
10.16#	Common Stock Purchase Agreement, dated December 20, 2021, by and between the Company and RTW Innovation Master Fund, Ltd.					X
10.17#	Common Stock Purchase Agreement, dated December 20, 2021, by and between the Company and RTW Venture Fund Limited					X
10.18#	Development Funding Loan Agreement, dated January 7, 2022, by and among Royalty Pharma Development Funding, LLC and the Company					X
10.19#†	Royalty Purchase Agreement, dated February 1, 2017, by and between the Company and RPI Finance Trust	10-K	000-50633	March 6, 2017	10.44	
10.20#	Amendment No. 1 to Royalty Purchase Agreement, dated January 7, 2022, by and between the Company and RPI Finance Trust					X
10.21#	Revenue Participation Right Purchase Agreement, dated January 7, 2022, by and between the Company and Royalty Pharma Investments 2019 ICAV					X
23.1	Consent of independent registered public accounting firm					X
24.1	Power of Attorney (included in the signature page to this report)					X
31.1	Certification of Principal Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002					X
31.2	Certification of Principal Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002					X
31.3	Certification of Principal Accounting Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002					X
32.1	Certifications of the Principal Executive Officer, the Principal Financial Officer, and the Principal Accounting Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (18 U.S.C. Section 1350) (1)					X
101.INS	Inline XBRL Instance Document (the Instance Document does not appear in the Interactive Data File because its XBRL tags are embedded within the Inline XBRL document)					X

Exhibit No.	Exhibits	Incorporated by Reference				Filed Herewith
		Form	File No.	Filing Date	Exh. No.	
101.SCH	Inline XBRL Taxonomy Extension Schema Document					X
101.CAL	Inline XBRL Taxonomy Extension Calculation Linkbase Document					X
101.DEF	Inline XBRL Taxonomy Extension Definition Linkbase Document					X
101.LAB	Inline XBRL Taxonomy Extension Label Linkbase Document					X
101.PRE	Inline XBRL Taxonomy Extension Presentation Linkbase Document					X
104	Cover Page Interactive Data File (formatted as Inline XBRL in Exhibit 101)					X

Portions of this Exhibit have been omitted as being immaterial and would be competitively harmful if publicly disclosed

† Schedules have been omitted pursuant to Item 601(a)(5) of Regulation S-K and will be furnished on a supplemental basis to the Securities and Exchange Commission upon request

\+ Management contract or compensatory plan.

(1) This certification accompanies the Form 10-K to which it relates, is not deemed filed with the Securities and Exchange Commission and is not to be incorporated by reference into any filing of the Registrant under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended (whether made before or after the date of the Form 10-K), irrespective of any general incorporation language contained in such filing.

(b) Exhibits

The exhibits listed under Item 15(a)(3) hereof are filed as part of this Form 10-K, other than Exhibit 32.1 which shall be deemed furnished.

(c) Financial Statement Schedules

None — All financial statement schedules are omitted because the information is inapplicable or presented in the notes to the financial statements.

ITEM 16. FORM 10-K SUMMARY

None.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities and Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

CYTOKINETICS, INCORPORATED

By: / S / ROBERT I. BLUM
Robert I. Blum
President, Chief Executive Officer and Director

Dated: February 25, 2022

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Robert I. Blum, Ching Jaw, Mark A. Schlossberg and Robert Wong, and each of them, his true and lawful attorneys-in-fact, each with full power of substitution, for him in any and all capacities, to sign any amendments to this Annual Report on Form 10-K and to file the same, with exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, hereby ratifying and confirming all that each of said attorneys-in-fact or their substitute or substitutes may do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities and Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated.

Signature	Title	Date
/s/ ROBERT I. BLUM Robert I. Blum	President, Chief Executive Officer and Director (Principal Executive Officer)	February 25, 2022
/s/ CHING W. JAW Ching W. Jaw	Senior Vice President, Chief Financial Officer (Principal Financial Officer)	February 25, 2022
/s/ ROBERT C. WONG Robert C. Wong	Vice President, Chief Accounting Officer (Principal Accounting Officer)	February 25, 2022
/s/ L. PATRICK GAGE, PHD. L. Patrick Gage, Ph.D.	Chairman of the Board of Directors	February 25, 2022
/s/ SANTO J. COSTA Santo J. Costa	Director	February 25, 2022
/s/ JOHN T. HENDERSON, M.B. CH.B. John T. Henderson, M.B. Ch.B.	Director	February 25, 2022
/s/ EDWARD M. KAYE, M.D. Edward M. Kaye, M.D.	Director	February 25, 2022
/s/ B. LYNNE PARSHALL, ESQ. B. Lynne Parshall, Esq.	Director	February 25, 2022
/s/ SANDFORD D. SMITH Sandford D. Smith	Director	February 25, 2022
/s/ WENDELL WIERENGA, PH.D. Wendell Wierenga, Ph.D.	Director	February 25, 2022
/s/ NANCY J. WYSENSKI Nancy J. Wysenski	Director	February 25, 2022
/s/ MUNA BHANJI Muna Bhanji	Director	February 25, 2022

Exhibit 10.4

THIRD AMENDMENT TO OFFICE LEASE

This THIRD AMENDMENT TO OFFICE LEASE ("**Third Amendment**") is made and entered into as of the 12th day of November, 2021, by and between KR OYSTER POINT I, LLC, a Delaware limited liability company ("**Landlord**"), and CYTOKINETICS INCORPORATED, a Delaware corporation ("**Tenant**").

RECITALS:

A. Landlord and Tenant entered into that certain Office Lease dated July 24, 2019 (the "**Office Lease**"), as amended by that certain First Amendment to Office Lease dated May 12, 2020 (the "**First Amendment**"), and that certain Second Amendment to Office Lease dated January 26, 2021 (the "**Second Amendment**") (the Office Lease, First Amendment, and Second Amendment shall collectively be referred to herein as the "**Lease**"), for certain space (the "**Premises**") within Building 3 in Phase 1 of that certain project commonly known as "Kilroy Oyster Point" and more particularly described in the Lease (the "**Project**").

B. Tenant desires to install a sculpture in front of Building 3, and to make other modifications to the Lease, and in connection therewith, Landlord and Tenant desire to amend the Lease as hereinafter provided.

AGREEMENT:

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. **Capitalized Terms**. All capitalized terms when used herein shall have the same meaning as is given such terms in the Lease unless expressly superseded by the terms of this Third Amendment.

2. **The Sculpture.**

2.1. **In General**. Subject to the terms of this Section 2 and all Applicable Laws and Tenant's receipt of all applicable governmental approvals in connection therewith, Tenant shall have the right, at Tenant's sole cost and expense, to purchase and install a sculpture (the "**Sculpture**") created by Matt Devine (the "**Artist**") materially consistent with that sculpture depicted in the preliminary plans attached hereto as **Exhibit A** (the "**Preliminary Sculpture Plans**"), in the location depicted on **Exhibit B** attached hereto (the "**Sculpture Area**"), which "Sculpture" shall include the accompanying landscaping work and electrical work in connection therewith as set forth in the Preliminary Sculpture Plans (collectively, the "**Sculpture Work**"). The cabling, equipment, lines, conduit and other items required or otherwise installed as part of the Sculpture Work to provide electricity to the Sculpture Area (collectively, the "**Electrical Equipment**") shall be deemed to be part of the Sculpture for purposes of this Section 2.1. Tenant shall accept the Sculpture Area in its "as is" condition, and Tenant shall not make any improvements or alterations to the Sculpture Area, nor shall Tenant be permitted to install or place in the Sculpture Area any furniture, fixtures, plants, graphics, signs or insignias or other items of any kind whatsoever, in either case, other than the Sculpture, without Landlord's prior consent, which consent may be withheld in Landlord's sole discretion. Landlord makes no representations or warranties, and shall have no responsibility or liability to any Tenant Party for any losses, damages, injury to persons or property caused by, related to, arising out of or in connection with, the condition of the Sculpture Area, or the fitness or suitability of the Sculpture Area for the installation, repair or maintenance of the Sculpture (and Tenant shall be required to obtain all governmental permits, consents, and approvals related thereto and provide copies of the same to Landlord, and to comply with Applicable Laws related to the installation, repair and maintenance of the Sculpture).

2.2. **Construction and Installation.** Except as otherwise expressly set forth in Section 2.1 above to the contrary, the performance of the Sculpture Work shall otherwise be performed by Tenant as part of the "Tenant Improvements" in accordance with the terms of the Lease, including the Work Letter attached to the Office Lease as Exhibit B. Notwithstanding the attached Preliminary Sculpture Plans, prior to Tenant's performance of the Sculpture Work, Tenant shall submit to Landlord all plans and specifications for the Sculpture Work (including, without limitation, the Final Working Drawings with respect thereto) for Landlord's review and approval pursuant to Section 3.4 of the Office Lease; provided that all such plans and specifications for the Sculpture Work that are submitted by Tenant hereafter shall be consistent with, and a logical extension of, the Preliminary Sculpture Plans.

2.3. **Repair, Maintenance and Compliance with Applicable Laws**. Tenant shall, at all times, at Tenant's sole cost and expense, repair and maintain the Sculpture in good condition and repair (including all Electrical Equipment and the "Electrical Meter," as that term is defined in Section 2.4, below) and in a manner consistent with a first class office building project. Further, Tenant shall at all times, at Tenant's sole cost and expense, be responsible to cause the Sculpture to comply with Applicable Laws. If Tenant shall fail to timely comply with its obligations under this Section 2.3 after delivery of written notice by Landlord and expiration of a thirty (30) day cure period, then Landlord may at Landlord's option, at Tenant's cost, complete any required repairs, maintenance, and/or alterations to the Sculpture, and Tenant shall reimburse Landlord for all third-party costs incurred in connection therewith within thirty (30) days of Tenant's receipt of Landlord's invoice therefore.

2.4. **Electricity**. As part of the Sculpture Work, Tenant shall, at Tenant's sole cost and expense, separately meter or submeter the electricity utilized by the Sculpture (such meter or submeter, the "**Electrical Meter**"), and Tenant shall, within thirty (30) days following written demand therefor by Landlord, pay Landlord for the cost of the electricity utilized in connection with the Sculpture Area. In no event shall Landlord be liable by way of damages or otherwise for any failure or interruption of any electrical service to the Sculpture .

2.5. **Indemnification and Insurance**. Tenant hereby acknowledges and agrees that Tenant's insurance obligations under Article 10 of the Office Lease shall apply with respect to the Sculpture and the Sculpture Work, and Tenant further acknowledges and agrees the indemnity by Tenant, as set forth in Article 10.1 of the Office Lease, shall also apply to any and all claims incurred in connection with or arising from any cause relating to the installation, existence, maintenance, repair and/or removal of the Sculpture. Except to the extent arising from the gross negligence or willful misconduct of Landlord or any Landlord Parties, Tenant hereby assumes all risk of damage to property with respect to the Sculpture from any cause whatsoever and agrees that Landlord and the Landlord Parties shall not be liable for, and are hereby released from any responsibility for, any damage to the Sculpture.

2.6. **Costs**. To the extent that Landlord shall incur any costs as a result of or in connection with Tenant's installation, use or removal of the Sculpture, Tenant shall pay Landlord such amounts within thirty (30) business days following demand by Landlord. Without limitation of the foregoing, Tenant acknowledges and agrees that Landlord shall, at Tenant's sole cost and expense, restore all areas damaged or otherwise impacted by Tenant's installation of the Sculpture to the condition existing prior to Tenant's installation thereof.

2.7. **End of Lease Term**. On or before to the expiration or earlier termination of the Lease, as amended, Tenant shall remove the Sculpture, repair all damage resulting from such removal and restore all affected areas to their condition prior to Tenant's installation of the Sculpture, reasonable wear and tear excepted, all at Tenant's sole cost and expense; provided, however, that upon notice to Tenant not less than sixty (60) days prior to the expiration of the Lease, as amended hereby, or upon any early termination of the Lease, as amended hereby, Tenant may elect to surrender the Sculpture to Landlord (free of liens or other third party claims but without any representation or warranty) upon the expiration or earlier termination of the Lease, as amended hereby, or Tenant's rights hereunder, and if Landlord agrees, then (i) Tenant shall not remove the Sculpture, (ii) Tenant shall thereafter have no further interest or rights with respect to such Sculpture and the Sculpture shall be deemed to be Landlord's property, and (iii) Tenant shall enter into any commercially reasonable documents or agreements to the extent necessary to effectuate such transfer. If Tenant fails to timely perform any removal, repair and/or restoration work, then Landlord may (but shall not be obligated to) perform such work at Tenant's sole cost and expense, and Tenant shall reimburse Landlord therefor within thirty (30) days of receipt of Landlord's invoice therefore. The terms of this Section 2.7 shall survive the expiration or earlier termination of the Lease, as amended.

2.8. **Artist Waiver**. Concurrently with the execution of this Third Amendment, Tenant shall deliver to Landlord a signed waiver from Artist in the form attached hereto as **Exhibit C**.

3. **Landlord's Costs**. Tenant hereby acknowledges and agrees that Tenant shall be obligated to reimburse Landlord, within ten (10) business days following demand therefor, for Landlord's actual out-of-pocket third party costs incurred with respect to the drafting and negotiation of this Third Amendment, which costs are estimated to be approximately $19,000.

4. **No Brokers**. Landlord and Tenant hereby warrant to each other that they have had no dealings with any real estate broker or agent in connection with the negotiation of this Third Amendment, and that they know of no real estate broker or agent who is entitled to a commission in connection with this Third Amendment. Each party agrees to indemnify and defend the other party against and hold the other party harmless from any and all claims, demands, losses, liabilities, lawsuits, judgments, and costs and expenses (including, without limitation, reasonable attorneys' fees) with respect to any leasing commission or equivalent compensation alleged to be owing on account of the indemnifying party's dealings with any real estate broker or agent. The terms of this Section 4 shall survive the expiration or earlier termination of this Third Amendment.

5. **Signatures**. The parties hereto consent and agree that this Third Amendment may be signed and/or transmitted by facsimile, e-mail of a .pdf document or using electronic signature technology (e.g., via DocuSign or similar electronic signature technology), and that such signed electronic record shall be valid and as effective to bind the party so signing as a paper copy bearing such party's handwritten signature. The parties further consent and agree that (1) to the extent a party signs this Third Amendment using electronic signature technology, by clicking "SIGN", such party is signing this Third Amendment electronically, and (2) the electronic signatures appearing on this Third Amendment shall be treated, for purposes of validity, enforceability and admissibility, the same as handwritten signatures.

6. **Conflict; No Further Modification**. In the event of any conflict between the Lease and this Third Amendment, the terms of this Third Amendment shall prevail. Except as specifically set forth in this Third Amendment, all of the terms and provisions of the Lease shall remain unmodified and in full force and effect.

[The remainder of the page is intentionally left blank. Signatures on next page.]

IN WITNESS WHEREOF, this Third Amendment has been executed as of the day and year first above written.

"**LANDLORD**" **KILROY OYSTER POINT I, LLC**,
a Delaware limited liability company

By: KILROY REALTY, L.P.,
a Delaware limited partnership
its sole member

By: KILROY REALTY CORPORATION,
a Maryland corporation,
General Partner

By: /s/ John Osmond
Name: John Osmond
Its: SVP, Asset Management

By: /s/ Eileen Kong
Name: Eileen Kong
Its: SVP, Asset Management

"**TENANT**" **CYTOKINETICS, INCORPORATED**,
a Delaware corporation

By: /s/ Robert Blum
Name: Robert Blum
Its: President and CEO

EXHIBIT 10.14

[*] – CERTAIN INFORMATION IN THIS DOCUMENT HAS BEEN EXCLUDED PURSUANT TO REGULATION S-K, ITEM 601(B)(10). SUCH EXCLUDED INFORMATION IS NOT MATERIAL AND WOULD LIKELY CAUSE COMPETITIVE HARM TO THE REGISTRANT IF PUBLICLY DISCLOSED.

LICENSE AND COLLABORATION AGREEMENT

This **License and Collaboration Agreement** (this "**Agreement**") is made as of December 20, 2021 (the "**Effective Date**"), by and between **Cytokinetics, Incorporated**, a Delaware corporation with a place of business at 350 Oyster Point Boulevard, South San Francisco, CA 94080, USA ("**Cytokinetics**"), and **Ji Xing Pharmaceuticals Limited,** a company organized under the laws of the Cayman Islands, with a business address located at [*] ("**Ji Xing**"). Cytokinetics and Ji Xing are referred to in this Agreement individually as a "**Party**" and collectively as the "**Parties**."

Recitals

Whereas, Cytokinetics, a biopharmaceutical company directed to the research, development and commercialization of small molecule compounds that modulate muscle function, is developing a proprietary cardiac sarcomere activator known as *omecamtiv mecarbil* and owns or controls certain patents and know-how related thereto;

Whereas, Ji Xing is a pharmaceutical company organized to develop and commercialize pharmaceutical products in the Territory; and

Whereas, Ji Xing wishes to obtain an exclusive license from Cytokinetics to develop, import and commercialize the Product in the Territory, and Cytokinetics is willing to grant such a license and to supply the Product to Ji Xing for development and commercial use in the Territory, all in accordance with the terms and conditions set forth herein.

Agreement

Now, Therefore, in consideration of the foregoing premises and the mutual covenants contained herein, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1
DEFINITIONS

Unless specifically set forth to the contrary herein, the following terms, whether used in the singular or plural, shall have the respective meanings set forth below:

1.1. "**Active Ingredient**" means any clinically active material that provides pharmacological activity in a pharmaceutical product (excluding formulation components such as coatings, stabilizers, excipients or solvents, adjuvants or controlled release technologies).

1.2. "**Affiliate**" means, with respect to a Party, any person or entity that directly or indirectly controls, is controlled by or is under common control with such Party. As used in this definition, "control" (and, with correlative meanings, the terms "controlled by" and "under common control with") means, in the case of a corporation, the ownership of fifty percent (50%) or more of the outstanding voting securities thereof or, in the case of any other type of entity, an interest that results in the ability to direct or cause the direction of the management and policies of such party or the power to appoint fifty percent (50%) or more of the members of the governing body of the party. Notwithstanding the foregoing, for purposes of this Agreement but subject to Section 2.9, Affiliates of Ji Xing shall exclude [*].

1.3. "**Amgen**" means Amgen Inc., a Delaware corporation with a place of business at One Amgen Center Drive, Thousand Oaks, California 91320.

1.4. [*]

1.5. "**Applicable Laws**" means all statutes, ordinances, regulations, rules or orders of any kind whatsoever of any Governmental Authority that may be in effect from time to time and applicable to the activities contemplated by this Agreement (including, GCP, GLP, GMP, and data protection and privacy laws, rules and regulations (such as, to the extent applicable, the United States Department of Health and Human Services privacy rules under the Health Insurance Portability and Accountability Act of 1996, the Health Information Technology for Economic and Clinical Health Act, and the GDPR)).

1.6. "**Arising Product IP**" means (a) any Data and Technology Developed by or on behalf of a Party during the course of the collaboration under this Agreement, whether alone or jointly with the other Party (including through its Affiliates or contractors), which is not the Background IP, including any Data and Technology that is (i) invented or generated as a result of a Party exercising its rights or carrying out its obligations under this Agreement, whether directly or via its Affiliates, sublicensees, agents or contractors, and (ii) relates to the Product or Compound, or their formulation, method of use, testing or assaying, or manufacture, including all rights, title and interest in and to the intellectual property rights therein and (b) any Intellectual Property Rights in and to such Data and Technology.

1.7. "**Background IP**" means (a) any and all Data and Technology, including any modification, amendment or improvement thereof, that (i) is in-licensed, created, invented, or Developed by or on behalf of Cytokinetics or any of its Affiliates prior to the Effective Date; or (ii) is in-licensed, created, invented, or Developed after the Effective Date by or on behalf of Cytokinetics or any of its Affiliates independent of the Agreement and without the use of or access to Ji Xing's Confidential Information and (b) any and all Intellectual Property Rights owned by or in-licensed to Cytokinetics or any of its Affiliates in and to the foregoing Data and Technology.

1.8. "**Business Day**" means a day other than Saturday, Sunday or any day on which banks located in San Francisco, U.S., Cayman Islands, or Beijing, China are authorized or obligated to close. Whenever this Agreement refers to a number of days, such number shall refer to calendar days unless Business Days are specified.

1.9. "**Calendar Quarter**" means the period commencing on January 1 of each Calendar Year and ending on March 31 of the same Calendar Year, the period commencing on April 1 of each Calendar Year and ending on June 30 of the same Calendar Year, the period commencing on July 1 of each Calendar Year and ending on September 30 of the same Calendar Year and the period commencing on October 1 of each Calendar year and ending on December 31 of the same Calendar Year, as the context shall require.

1.10. "**Calendar Year**" means each twelve (12) month period commencing on January 1 and ending on December 31.

1.11. "**cGMP**" means in respect of Cytokinetics' obligations under this Agreement, all applicable current Good Manufacturing Practices as set forth in 21 C.F.R. Parts 4, 210, 211, 601, 610 and 820, and in respect of Ji Xing's obligations under this Agreement, the equivalent Applicable Laws in any relevant country or region in the Territory, each as may be amended and applicable from time to time.

1.12. "**Change of Control**" means, with respect to a Party, [*].

1.13. "**Clinical Trial**" means any clinical testing of the Product in human subjects.

1.14. "**Commercialization**" or "**Commercialize**" means all activities directed to commercializing, promoting, selling, offering for sale and related importing and exporting activities, but excluding Manufacturing.

1.15. "**Committee**" means the JSC, JDC, JCC, JMAC or any subcommittee established by the JSC, as applicable.

1.16. "**Compound**" means Cytokinetics' proprietary cardiac sarcomere activator known as *omecamtiv mecarbil*, including [*].

1.17. "**Confidential Information**" of a Party means all Know-How, unpublished patent applications and other information and data of a financial, commercial, business, scientific or technical nature of such Party that is: (a) disclosed by or on behalf of such Party or any of its Affiliates or agents, or is otherwise made available to the other Party or any of its Affiliates, whether made available orally, in writing or in electronic form; or (b) learned by the other Party or come to the attention of the other Party in connection with the performance of this Agreement by either Party. The terms of this Agreement shall be considered the Confidential Information of both Parties, which neither Party may disclose without the other Party's prior written consent except as provided in Article 11.

1.18. "**Control**" or "**Controlled**" means, with respect to any Know-How, Patents or other intellectual property rights, that a Party has the legal authority or right (whether by ownership, license or otherwise) to grant to the other Party a license, sublicense, access or other right (as applicable) under such Know-How, Patents, or other intellectual property rights, on the terms and conditions set forth herein, in each case without breaching the terms of any agreement with a Third Party.

1.19. "**Cytokinetics IP**" means (a) Background IP and (b) Cytokinetics' and its Affiliates' interest in Arising Product IP, in each of case (a) and (b), that are the Know-How and Patents that are (i) Controlled by Cytokinetics or its Affiliates as of the Effective Date or during the Term of this Agreement, and (ii) necessary or reasonably useful for the Development and/or Commercialization of the Product in the Field. For the avoidance of doubt, Cytokinetics IP excludes Know-How and Patents that are solely necessary or reasonably useful for Manufacturing of the Compound or the Product.

1.20. "**Cytokinetics Know-How**" means the Know-How included in the Cytokinetics IP.

1.21. "**Cytokinetics Patents**" means the Patents within the Cytokinetics IP. Cytokinetics Patents existing as of the Effective Date in the Territory shall be disclosed pursuant to a side letter entered into among Cytokinetics, Ji Xing and Ji Xing's external counsel as of the Effective Date.

1.22. "**Data and Technology**" means all creations, inventions, discoveries, Know-How, works of authorship, data, and other information, including study data, development data, information (including scientific, technical or regulatory information), methods, techniques, materials, technology, results, analyses, laboratory, pre-clinical and clinical data, study data, pharmacology, toxicology, chemistry, manufacturing and controls (CMC) data, manufacturing and formulation methodologies and techniques, quality systems information, clinical and non-clinical safety and efficacy studies and data, absorption, distribution, metabolism and excretion studies and data, and regulatory information, filings and supporting data.

1.23. "**Development**" or "**Develop**" means all development activities to obtain and maintain Regulatory Approval for the Product, including all pre-clinical studies, non-clinical development research, and Clinical Trials of the Product, distribution of Product for use in Clinical Trials (including placebos and comparators), statistical analyses, the preparation of regulatory filings and all regulatory affairs related to any of the foregoing, and LCM Activities.

1.24. "**Diligent Efforts**" means [*].

1.25. "**Dollars**" or "**$**" means U.S. dollars, the lawful currency of the U.S.

1.26. "**Existing Cytokinetics Study Data**" means Personal Data comprised within the data relating to any Clinical Trial of the Product that commenced on or before the Effective Date, which is transferred or made available to Ji Xing by or on behalf of Cytokinetics under and in accordance with this Agreement.

1.27. "**FDA**" means the U.S. Food and Drug Administration or its successor.

1.28. "**Field**" means all diagnostic, prophylactic and therapeutic uses in humans.

1.29. "**First Commercial Sale**" means, with respect to any Product in any Market, the first sale of such Product to a Third Party for distribution, use or consumption in such Market after the Regulatory Approvals have been obtained for such Product in such Market. For clarity, First Commercial Sale shall not include any sale or transfer of the Product prior to receipt of Regulatory Approval, such as so-called "treatment IND sales," "named patient sales" and "compassionate use sales."

1.30. **"FTE"** means a full-time equivalent Cytokinetics employee or contractor providing technical assistance or other support to Ji Xing under this Agreement, based on the equivalent of [*] per year by a single individual.

1.31. **"FTE Rate"** means an initial rate of [*] per FTE per year, which rate shall apply through [*]. Thereafter, the FTE Rate may be changed [*].

1.32. "**GAAP**" means, with respect to a person or entity's accounting standard in a country or jurisdiction, (a) if in regards to the U.S., U.S. generally accepted accounting principles, (b) if in regards to Mainland China, the PRC generally accepted accounting principles, (c) if in regard to any country or jurisdiction other than the U.S. and Mainland China, either (i) the International Financial Reporting Standards issued by the International Financial Reporting Standards Foundation and the International Accounting Standards Board, or (ii) the applicable accounting standards as published by the preeminent accounting society for that country or jurisdiction and followed by such person or entity, in each case of (a), (b) and (c), consistently applied and that provide for, among other things, assurance that the accounting and reported results are credible and accurate.

1.33. "**GCP**" means all applicable Good Clinical Practice standards for the design, conduct, performance, monitoring, auditing, recording, analyses and reporting of Clinical Trials, including, as applicable (a) as set forth in the International Conference on Harmonization of Technical Requirements for Registration of Pharmaceuticals for Human Use Harmonized Tripartite Guideline for Good Clinical Practice (CPMP/ICH/135/95) and any other guidelines for good clinical practice for trials on medicinal products in the Territory, (b) the Declaration of Helsinki (2004) as last amended at the 52nd World Medical Association in October 2000 and any further amendments or clarifications thereto, (c) 21 C.F.R. Parts 50 (Protection of Human Subjects), 56 (Institutional Review Boards) and 312 (Investigational New Drug Application), as may be amended from time to time, and (d) the equivalent Applicable Laws in the Territory, each as may be amended and applicable from time to time and in each case, that provide for, among other things, assurance that the clinical data and reported results are credible and accurate and protect the rights, integrity, and confidentiality of trial subjects.

1.34. "**GDPR**" means, as and where applicable to Personal Data concerned: (i) the General Data Protection Regulation (Regulation (EU) 2016/679) ("**EU GDPR**"); and/or (ii) the EU GDPR as it forms part of UK law by virtue of section 3 of the European Union (Withdrawal) Act 2018 (as amended, including by the Data Protection, Privacy and Electronic Communications (Amendments etc.) (EU Exit) Regulations 2019) ("**UK GDPR**"), including, in each case (i) and (ii) any applicable national implementing or supplementary legislation (e.g., the UK Data Protection Act 2018), and any successor, amendment or re-enactment, to or of the foregoing. References to "**Articles**" and "**Chapters**" of, and other relevant defined terms in, the GDPR shall be construed accordingly.

1.35. "**Generic Product**" means, with respect to a Product in a particular Market in the Territory, any pharmaceutical product that (a) contains the same Active Ingredient(s) as such Product in the same pharmaceutical form as such Product (and contains no other Active Ingredient); (b) [*] in such Market ([*] in such Market) [*] in such Market; (c) is [*] the Product, as determined by the [*] (e.g., a medication [*]); and (d) is sold in such Market by a Third Party that is not a sublicensee of Ji Xing or its Affiliates and did not purchase such product in a chain of distribution that included any of Ji Xing or its Affiliates or sublicensees.

1.36. "**GLP**" means all applicable Good Laboratory Practice standards, including, as applicable, as set forth in the then current good laboratory practice standards promulgated or endorsed by the U.S. Food and Drug Administration as defined in 21 C.F.R. Part 58, or the equivalent Applicable Laws in the region in the Territory, each as may be amended and applicable from time to time.

1.37. "**Governmental Authority**" means any court, commission, authority, department, ministry, official or other instrumentality of, or being vested with public authority under any law of, any country, region, state or local authority or any political subdivision thereof, or any association of countries.

1.38. "**IND**" means any investigational new drug application, clinical trial application, clinical trial exemption or similar or equivalent application or submission for approval to conduct human clinical investigations filed with or submitted to a Regulatory Authority in conformance with the requirements of such Regulatory Authority.

1.39. "**Information Security Incident**" means any accidental, unlawful or unauthorized use, corruption, acquisition, modification, destruction, loss, alteration, encryption, disclosure, other processing of or access to Confidential Information, including the case where such event is reasonably suspected to have occurred.

1.40. "**Intellectual Property Rights**" means any and all (a) Patents; (b) copyrights, "neighboring rights" and "sui generis" rights, unregistered design rights, database rights, and similar rights associated with works of authorship, software or other creations; (c) trade secret and know-how rights and other rights in confidential or proprietary Data and Technology; and (d) other intellectual or industrial property rights.

1.41. "**Ji Xing IP**" means (a) the Know-How, Patents, and other Data and Technology and Intellectual Property Rights that are (i) Controlled by Ji Xing, its Affiliates or sublicensees as of the Effective Date or during the Term of this Agreement, and (ii) necessary or reasonably useful for the Development, Manufacture, and/or Commercialization of the Product in the Field and (b) Ji Xing's and its Affiliates' and sublicensees' interest in Arising Product IP.

1.42. "**Ji Xing Know-How**" means the Know-How included in the Ji Xing IP.

1.43. "**Ji Xing Patents**" means the Patents within the Ji Xing IP, but excluding any Patents jointly owned with Cytokinetics.

1.44. "**Ji Xing SH**" means Ji Xing Pharmaceuticals (Shanghai) Co., Ltd., an Affiliate of Ji Xing.

1.45. **"Knowledge**" means, with respect to a Party, the knowledge, after reasonable inquiry with respect to the applicable facts and information (including inquiry of outside legal counsel), of any senior officer or internal legal counsel of such Party or any of its Affiliates.

1.46. "**Know-How**" means any proprietary scientific or technical information, results and data of any type whatsoever, in any tangible or intangible form whatsoever, whether or not patentable, including databases, safety information, practices, methods, techniques, specifications, formulations, formulae, knowledge, know-how, skill, experience, test data including pharmacological, medicinal chemistry, biological, chemical, biochemical, toxicological and clinical test data, analytical and quality control data, stability data, studies and procedures, and manufacturing process and development information, results and data.

1.47. "**LCM Activities**" means any post-approval Clinical Trial(s) or [*].

1.48. "**Mainland China**" means People's Republic of China, not including the Hong Kong Special Administrative Region, Macau Special Administrative Region, or Taiwan for the purpose of this Agreement.

1.49. "**Manufacture**" and "**Manufacturing**" mean activities directed to manufacturing, processing, filling, finishing, packaging, labeling, quality control, quality assurance testing and release, post-marketing validation testing, inventory control and management, storing and transporting any Compound and/or Product.

1.50. "**Manufacturing Cost**" means, with respect to the Product that is Manufactured by Cytokinetics' CMO and supplied by Cytokinetics to Ji Xing for Development and Commercialization use hereunder, Cytokinetics' [*] of the Manufacture and supply of such Product.

1.51. "**Market**" means each of the countries or jurisdictions of the Territory.

1.52. "**Medical Affairs Activities**" means the activities designed to ensure or improve appropriate medical use of, conduct medical education of, or further research regarding, the Product, including by way of example: (a) activities of medical science liaisons who, among their other functions may (i) conduct service based medical activities, including providing input and assistance with advisory meetings, (ii) recommend investigators for clinical trials and provide input in the design of such trials and other research related activities, and (iii) deliver non-promotional communications and conduct non-promotional activities, including presenting new clinical trial and other scientific information; (b) grants to support continuing medical education, symposia, and Third Party research related to the Product; (c) development, publication and dissemination of publications relating to the Product; (d) medical information services provided in response to inquiries received through sales representative, letter, phone call, email and other communication; (e) conducting advisory board meetings or other consultant programs; and (f) the support of investigator-initiated trials of the Product.

1.53. "**NDA**" means a New Drug Application, as defined by the FDA, or equivalent application for approval (but not including pricing and reimbursement approvals) to market a pharmaceutical product in a country or jurisdiction outside the U.S.

1.54. "**Net Sales**" means the [*] on sales of the Product by Ji Xing, its Affiliates, or sublicensees for sale of the Product to a Third Party in the Territory, less following deductions, to the extent allocable to such Product:

(a) [*];

(b) [*];

(c) [*];

(d) [*];

(e) [*]; and

(f) [*].

Each of the amounts set forth above shall be determined from the books and records of Ji Xing, its Affiliate or sublicensee, maintained in accordance with GAAP consistently applied. For the avoidance of doubt, if a single item falls into more than one of the categories set forth in clauses (a)-(e) above, such item may not be deducted more than once.

With respect to any sale of the Product [*].

Sales between Ji Xing and its Affiliates and sublicensees shall be disregarded for purposes of calculating Net Sales except if such purchaser is a distributor, a pharmacy or an end user. Net Sales also exclude any sale or transfer of the Product for free or below cost in early access, compassionate use or named patient programs.

Notwithstanding the foregoing, Net Sales shall not include amounts (whether actually existing or deemed to exist for purposes of calculation) for Product distributed for use in Clinical Trials or pre-clinical trials.

If the Product is (a) sold co-packaged with one or more other pharmaceutical product(s) that is not a Product ("**Co-Packaged Product**"), or (b) is sold together with other products of the selling party or Affiliates in which the joint selling price provides a discount (e.g., as part of a "bundled" or joint or combined discount arrangement) from the list price of the Product ("**Bundled Product**"), then the Net Sales for the Product contained in such Co-Packaged Product or Bundled Product shall be calculated [*].

If the Parties have any [*] Net Sales (including any [*] Co-Packaged Products or Bundled Products), either Party may [*].

1.55. "**NMPA**" means National Medicine Products Administration of China (formerly known as the China Food and Drug Administration), or its successor.

1.56. "**Patents**" means all national, regional and international patents and patent applications, including certificates of invention and applications for certificates of invention and priority rights, provisional applications, divisions, continuations, continuations-in-part, additions, re-issues, renewals, extensions, patent term adjustments, substitutions, re-examinations or restorations, registrations and revalidations, and supplementary protection certificates and equivalents to any of the foregoing, design patents, utility models, and similar rights.

1.57. "**Personal Data**" means any data that constitutes "personal information", "personal data", "personally identifiable information" or similar term as defined and governed by Applicable Laws.

1.58. "**Phase 1 Clinical Trial**" means any human clinical trial of the Product that would satisfy the requirements of 21 § CFR 312.21(a) or corresponding foreign regulations.

1.59. "**Phase 2 Clinical Trial**" means any human clinical trial of the Product that would satisfy the requirements of 21 § CFR 312.21(b) or corresponding foreign regulations.

1.60. "**Pivotal Clinical Trial**" means any human clinical trial of the Product that is intended (as of the time of Initiation of such clinical trial) to obtain the results and data to support the filing of an NDA (including label expansion but excluding the data that may be necessary to support the pricing and/or reimbursement approval), including so called Phase 2/3 trials and any human clinical trial that would satisfy the requirements of 21 § CFR 312.21(c) or corresponding foreign regulations. [*].

1.61. "**Product**" means any pharmaceutical product that contains the Compound as an Active Ingredient, alone or in combination with other Active Ingredients (whether co-formulated or co-packaged, but not in combination with any Active Ingredient that is proprietary to Cytokinetics but that is not the Compound), in any formulation or dosage form and for any mode of administration.

1.62. "**Pseudonymized Clinical Trial Data**" means individual-level data (as opposed to aggregated data) relating to an identifiable natural person but which can no longer be attributed to that natural person (e.g., due to the replacement of direct personal identifiers with a code or equivalent) without the use of additional information (a "**Pseudonymization Key**"); provided that such Pseudonymization Key is kept separately from that data and is subject to technical and organizational measures designed to prevent the data from being attributed to an identified or identifiable natural person.

1.63. "**Regulatory Approval**" means, with respect to the Product in a country or jurisdiction, all approvals from the Regulatory Authorities necessary to market and sell the Product in such country or jurisdiction, including pricing and reimbursement approval.

1.64. "**Regulatory Approval Purposes**" means the limited purposes of supporting, maintaining, making, acquiring or registering an application for Regulatory Approval(s) for the Product under and in accordance with this Agreement (including in associated correspondence with Regulatory Authority(ies) relating to such applications).

1.65. "**Regulatory Authority**" means any applicable Governmental Authority responsible for granting Regulatory Approvals for Product, including the FDA, NMPA, and any corresponding national or regional regulatory authorities.

1.66. "**Regulatory Exclusivity**" means any exclusive marketing rights or data exclusivity rights (other than Patents) conferred by any Regulatory Authority with respect to a pharmaceutical or medical product, including without limitation [*].

1.67. "**Regulatory Materials**" means any regulatory application, submission, notification, communication, correspondence, registration, approval and other filings made to, received from or otherwise conducted with a Regulatory Authority regarding the Product, including any NDA and Regulatory Approval.

1.68. [*]

1.69. "**Territory**" means the following jurisdictions: Mainland China, the Hong Kong Special Administrative Region, Macau Special Administrative Region, and Taiwan.

1.70. "**Third Party**" means an entity other than Cytokinetics, Ji Xing and Affiliates of either of them.

1.71. "**U.S.**" means United States of America, including all possession and territories thereof.

1.72. "**Upstream Licenses**" means those agreements with Third Parties as of the Effective Date, pursuant to which Cytokinetics has in-licensed a certain part of the Cytokinetics IP from such Third Parties.

1.73. "**Valid Claim**" means a claim of a pending patent application or an issued and unexpired Patent (as may be extended through supplementary protection certificate or patent term extension or the like) that has not been revoked, held invalid or unenforceable by a patent office, court or other Governmental Authority of competent jurisdiction in a final and non-appealable judgment (or judgment from which no appeal was taken within the allowable time period) and which claim has not been disclaimed, denied or admitted to be invalid or unenforceable through reissue, re-examination or disclaimer or otherwise; provided that [*].

1.74. Additional Definitions. The following table identifies the location of definitions set forth in various Sections of the Agreement:

Defined Terms	**Section**
[*]	2.6
Alliance Manager	3.1
API Supply Agreement	7.3(b)
Bundled Product	1.48
China Launch Date	8.2
Clinical Quality Agreement	5.5
CMO	7.1

Defined Terms	Section
Co-Packaged Product	1.48
Co-Pending Patent Application	10.3(d)
Commercialization Plan	8.3
Cytokinetics Arising Product IP	10.2(b)
Cytokinetics Indemnitee(s)	13.1
Cytokinetics Prosecuted Patents	10.3(a)
Development Plan	4.3
EU GDPR	1.35
Existing Territory Patents	12.2(c)
Failure Date	14.2(d)(ii)
FCPA	16.6(a)
FCPA Covered Person	16.6(a)
Global Brand Elements	10.8(a)
Global Commercialization Plan	8.4(a)
Global Development Plan	4.5(a)
Global Medical Affairs Plan	6.3(a)
HFrEF	14.2(d)(ii)
[*]	[*]
Indemnified Party	13.3
Indemnifying Party	13.3
[*]	[*]
Ji Xing Indemnitee(s)	13.2
Joint Commercialization Committee or JCC	3.4
Joint Development Committee or JDC	3.3
Joint Medical Affairs Committee or JMAC	3.5
Joint Steering Committee or JSC	3.2
Losses	13.1
Manufacturing Quality Agreement	7.3(c)
Medical Affairs Plan	6.2
Multi-Region Trial	4.5(b)
NRDL	8.2
Pharmacovigilance Agreement	5.5
Prior CDAs	11.6
Product CMO	7.5(a)
Product CMO Agreement	7.5(a)
Product Infringement	10.4(a)
Product Marks	10.8(b)
Proposed Terms	15.3(c)
Pseudonymization Key	1.63

Defined Terms	Section
Purchase Price	7.2
[*]	[*]
Remedial Action	5.8
Requirements	15.3(b)
Royalty Assignee	9.4(a)
Royalty Term	9.5(b)
SEC	11.5(b)
Supply Agreement	7.3(a)
Term	14.1
Third Party IP	2.7(a)
Third Party IP License	2.7(b)
Threshold Amount	9.4(c)(i)
UK GDPR	1.35

ARTICLE 2
LICENSES

2.1. License Grant to Ji Xing.

(a) Subject to the terms and conditions of this Agreement, Cytokinetics hereby grants to Ji Xing an exclusive (even as to Cytokinetics but subject to Cytokinetics' retained rights as set forth in Section 2.3), royalty-bearing license, with the right to grant sublicenses (through multiple tiers) solely in accordance with Section 2.2, under the Cytokinetics IP to Develop and Commercialize the Product in the Field in the Territory during the Term of this Agreement. For clarity, [*].

(b) Notwithstanding anything to the contrary herein, Ji Xing shall not (and shall not permit its Affiliates and sublicensees to) Develop, Manufacture or Commercialize the Product except in accordance with the Development Plan or Commercialization Plan.

2.2. Right to Sublicense.

(a) Subject to the terms and conditions of this Agreement, Ji Xing shall have the right to grant sublicenses of the license granted to it under Section 2.1: (i) to any Affiliate [[*], which shall [*], provided that [*]; and (ii) to Third Parties, which shall [*]; provided that [*].

(b) Each sublicense under the Cytokinetics IP shall be subject to a written agreement between Cytokinetics and the relevant sublicensee in the form attached hereto as Schedule 2.2(b) that is consistent with the terms and conditions of this Agreement. Without limiting the foregoing, each sublicense shall contain at least the following terms and conditions: (i) requiring each such sublicensee to protect and keep confidential any Confidential Information of the Parties in accordance with Article 11 of this Agreement; [*].

(c) Ji Xing shall remain directly responsible for all of its obligations under this Agreement that have been delegated or sublicensed to any sublicensee or other subcontractor. Any sublicensee or subcontractor conduct, act, omission or state of affairs that would have constituted a breach of this Agreement shall be imputed to Ji Xing and deemed a breach of this Agreement as if such conduct, act, omission or state of affairs had been directly attributable to Ji Xing. Ji Xing shall not grant a sublicense to any sublicensee or engage the services of any subcontractor that has been debarred or disqualified by a Regulatory Authority.

2.3. Cytokinetics Retained Rights. Notwithstanding the exclusive license granted to Ji Xing under Section 2.1, Cytokinetics hereby expressly retains the rights to use the Cytokinetics IP in the Field in the Territory in order to perform its obligations under this Agreement, whether directly or through its Affiliates, licensees, sublicensees or agents. For clarity, Cytokinetics retains the exclusive right to practice, license and otherwise exploit the Cytokinetics IP outside the scope of the license granted to Ji Xing under Section 2.1, including the exclusive right to Develop and Commercialize the Compound and Product outside the Territory [*].

2.4. License Grant to Cytokinetics. Ji Xing hereby grants to Cytokinetics [*].

2.5. No Implied Licenses; Negative Covenant. Except as set forth herein, neither Party shall acquire any license or other right or interest, by implication or otherwise, under any Know-How, Patent or other intellectual property of the other Party. Ji Xing shall not, and shall not permit any of its Affiliates or sublicensees to, practice any Cytokinetics IP outside the scope of the license granted by Cytokinetics to Ji Xing under Section 2.1 of this Agreement. Cytokinetics shall not, and shall not permit any of its Affiliates or sublicensees to, practice any Ji Xing IP outside the scope of the license granted by Ji Xing to Cytokinetics under Section 2.4 of this Agreement.

2.6. [*]**.** Notwithstanding anything to the contrary herein, if a Party [*], then all intellectual property rights that are [*]under this Agreement, provided, however, that [*] the Development, Manufacture or Commercialization of or the conduct of Medical Affairs Activities for the Compound or Product, then such intellectual property right that [*]. For clarity, if the [*]under this Agreement, then the intellectual property [*] shall be [*].

2.7. Future Third Party In-License.

(a) If either Party becomes aware of any Patent or Know-How that is owned or controlled by a Third Party and is reasonably necessary or useful for the Development, Manufacture or Commercialization of the Product in the Field (such Patent or Know-How, "**Third Party IP**"), then such Party shall bring such matter to the attention of the other Party and the Parties shall discuss whether it is advisable for the Parties to obtain a license under Third Party IP for the Product in the Territory.

(b) As between the Parties, Cytokinetics shall have the exclusive right (but not the obligation) to obtain a worldwide license under such Third Party IP for the Product. If Cytokinetics obtains such a worldwide license (a "**Third Party IP License**"), such Third Party IP, to the extent falling within the definition of Cytokinetics IP, shall be included in Cytokinetics IP and sublicensed to Ji Xing under the terms and conditions of this Agreement; provided however that Ji Xing shall reimburse Cytokinetics for (i) [*]; and (ii) [*]. Any reimbursement by Ji Xing under this Section 2.7(b) shall not be subject to the further royalty offset provisions of Section 9.4(c)(iii).

(c) Notwithstanding the foregoing, Cytokinetics will have the sole and exclusive right to negotiate any agreement(s) with one or more Third Parties to obtain worldwide license(s) related to the dosage selection test to be used in connection with the Product and any Third Party IP License in connection thereto, and Ji Xing will be responsible for (i) [*], (ii) [*] and (iii) [*]. Notwithstanding the foregoing, [*].

(d) If Cytokinetics has not obtained such a worldwide license with sublicense rights for the Territory by the date that is the later of (i) [*], or (ii) [*] unless the Parties otherwise agree, then Ji Xing shall have the right to obtain, at its own cost and expense (which shall be subject to royalty offset provisions of Section 9.4(c)(iii)), a license under such Third Party IP for the Product but only in the Field in the Territory.

2.8. No Diversion. Each Party hereby covenants and agrees that it shall not, and shall ensure that its Affiliates and sublicensees shall not, either directly or indirectly, promote, market, distribute, import, sell or have sold any Product, including via the Internet or mail order, to any Third Party or to any address or Internet Protocol address or the like in the other Party's territory or to any Third Party that such Party knows (or reasonably should know after due inquiry) has previously exported or is likely to export the Product to the other Party's territory. Neither Party shall engage, nor permit its Affiliates and sublicensees to engage, in any advertising or promotional activities relating to any Product for use directed primarily to customers or other buyers or users of the Product located in any country or jurisdiction in the other Party's territory, or solicit orders from any prospective purchaser located in any country or jurisdiction in the other Party's territory. If a Party or its Affiliates or sublicensees receive any order for the Product from a prospective purchaser located in a country or jurisdiction in the other Party's territory, such Party shall immediately refer that order to such other Party and shall not accept any such orders. Neither Party shall, nor permit its Affiliates and sublicensees to, deliver or tender (or cause to be delivered or tendered) any Product to any Third Party for use in or distribution into the other Party's territory, except as permitted under this Agreement including under Section 2.3.

2.9. [*].

2.10. Subcontractors. Subject to the terms and conditions of this Agreement (including Section 2.2 and Schedule 8.2), Ji Xing shall have the right to engage subcontractors for purposes of conducting Development, Commercialization and other activities for Ji Xing under this Agreement, provided that any such subcontractor is bound by a written agreement that is consistent with the terms and conditions of this Agreement (including those relating to confidentiality, intellectual property rights and compliance). Through the appropriate Committee, Ji Xing shall keep Cytokinetics informed on its selection and engagement of subcontractors, including the identity and qualification of any significant subcontractors it intends to engage in the Development and Commercialization of the Product, and shall consider in good faith Cytokinetics' comments and suggestions before engaging the subcontractor. Ji Xing shall remain directly responsible for any obligations under this Agreement that have been delegated or subcontracted to any subcontractor, and shall be directly responsible for the performance of its subcontractors.

ARTICLE 3
GOVERNANCE

3.1. Alliance Managers. Each Party hereby appoints the person listed on **Exhibit A** to act as its alliance manager under this Agreement as of the Effective Date (the "**Alliance Manager**"). The Alliance Managers shall facilitate the flow of information and otherwise promote communication, coordination and collaboration between the Parties and raise cross-Party and/or cross-functional issues in a timely manner. Each Party may replace its Alliance Manager by written notice to the other Party.

3.2. Joint Steering Committee. Cytokinetics hereby appoints the Chief Executive Officer of Cytokinetics and Ji Xing hereby appoints the Chief Executive Officer of Ji Xing to serve on a joint steering committee (the "**Joint Steering Committee**" or the "**JSC**") to manage the overall collaboration of the Parties under this Agreement. The JSC shall in particular: [*].

3.3. Joint Development Committee. Each Party hereby appoints up to four (4) representatives listed on **Exhibit A** to serve on a joint development committee (the "**Joint Development Committee**" or the "**JDC**") as of the Effective Date to oversee the Development of the Product in the Field in the Territory under this Agreement. The JDC shall in particular: [*].

3.4. Joint Commercialization Committee. Each Party hereby appoints three (3) representatives to serve on a joint commercialization committee (the "**Joint Commercialization Committee**" or the "**JCC**") to review, share information on and discuss the Commercialization of the Product in the Field in the Territory under this Agreement. The JCC shall in particular: [*].

3.5. Joint Medical Affairs Committee. Each Party hereby appoints three (3) representatives to serve on a joint medical affairs committee (the "**Joint Medical Affairs Committee**" or the "**JMAC**") to review, share information on and discuss the Medical Affairs Activities for the Product in the Field in the Territory under this Agreement. The JMAC shall in particular: [*].

3.6. Limitation of Authority. Each Committee shall only have the powers expressly assigned to it in this Article 3 and elsewhere in this Agreement and shall not have the authority to: (a) modify or amend the terms and conditions of this Agreement; (b) waive either Party's compliance with the terms and conditions of this Agreement; or (c) determine any such issue in a manner that would conflict with the express terms and conditions of this Agreement.

3.7. Committee Members. Each Party's representatives on the Committees shall be an officer or employee of the applicable Party having sufficient seniority within such Party to make decisions arising within the scope of the applicable Committee's responsibilities. Each Party may replace its representatives on any Committee upon written notice to the other Party. Each Party shall appoint one of its representatives on each Committee to act as a co-chairperson of such Committee.

3.8. Meetings. Each Committee shall hold meetings at such times as it elects to do so, but in no event shall such meetings be held less frequently than once every Calendar Quarter. Each Party may call additional ad hoc Committee meetings as the needs arise with reasonable advance notice to the other Party. Meetings of any Committee may be held in person, by audio or video teleconference; provided that unless the Parties otherwise agree, at least [*] shall be held in person. In-person Committee meetings shall be held at [*]. The co-chairpersons of the applicable Committee shall jointly prepare the agenda and minutes for each Committee meeting. Each Party shall be responsible for all of its own expenses of participating in the Committee meetings. No action taken at any Committee meeting shall be effective unless at least one representative of each Party is participating in such Committee meeting.

3.9. Non-Member Attendance. Each Party may from time to time invite a reasonable number of participants, in addition to its representatives, to attend any Committee meeting in a non-voting capacity; provided that if either Party intends to have any Third Party (including any consultant) attend such a meeting, such Party shall provide prior written notice to the other Party. Such Party shall also ensure that such Third Party is bound by confidentiality and non-use obligations consistent with the terms of this Agreement.

3.10. Decision-Making. All decisions of each Committee shall be made by unanimous vote, with each Party's representatives having one vote. If after reasonable discussion and good faith consideration of each Party's view on a particular matter before the JDC, JCC, JMAC or any subcommittee established by the JSC, the representatives of the Parties on such Committee cannot reach an unanimous decision as to such matter within [*] after a Party has requested resolution of such matter by such Committee, such matter shall be referred to the JSC for resolution. The JSC shall promptly meet and use good faith efforts to resolve such matter. If the JSC cannot resolve such matter within [*] after such matter has been referred to them, then:

(a) [*]; and

(b) [*].

3.11. Discontinuation of Committees. The activities to be performed by each Committee shall solely relate to governance under this Agreement, and are not intended to be or involve the delivery of services. Each Committee shall continue to exist until the first to occur of: (a) the Parties mutually agreeing to disband such Committee; or (b) Cytokinetics providing written notice to Ji Xing of its intention to disband and no longer participate in such Committee. Once the Parties mutually agree or Cytokinetics has provided written notice to disband any Committee, such Committee shall have no further obligations under this Agreement and, thereafter, the Alliance Managers shall be the contact persons for the exchange of information under this Agreement and decisions of such Committee shall be decisions as between the Parties, subject to the same respective decision-making rights and limitations set forth in Section 3.10 and other terms and conditions of this Agreement.

ARTICLE 4
DEVELOPMENT

4.1. General. Subject to the terms and conditions of this Agreement, Ji Xing shall be responsible for the Development of the Product in the Field in the Territory, including the performance of Clinical Trials for the Product in the Field in the Territory necessary for Regulatory Approval and other LCM Activities.

4.2. Development Diligence. Ji Xing shall use Diligent Efforts to carry out the initial Development Plan and subsequent Development Plans approved by the JDC and shall otherwise use Diligent Efforts to Develop the Product (including with respect to any LCM Activities described in Section 4.5 below) and obtain and maintain Regulatory Approval of the Product in each Market in the Territory. Without limiting the foregoing, Ji Xing shall use Diligent Efforts to [*].

4.3. Development Plan. All Development of the Product conducted by or on behalf of Ji Xing under this Agreement shall be conducted pursuant to a comprehensive written Development plan that sets forth the timeline and details of all clinical and regulatory activities to be conducted by or on behalf of Ji Xing to obtain and maintain Regulatory Approval of the Product in the Field in each Market in the Territory (the "**Development Plan**"). The Development Plan shall, except as expressly agreed by Cytokinetics in writing (e.g., to the extent required by the applicable Regulatory Authority or to address specific operational requirements in the Territory), be [*] and shall be focused [*]. As of the Effective Date, the Parties have agreed to the initial Development Plan, which is attached hereto as **Exhibit B**. The JDC shall review and update the Development Plan within [*] after the Effective Date. From time to time, but at least once every [*], Ji Xing shall propose updates or amendments to the Development Plan in consultation with Cytokinetics and submit such proposed updated or amended plan to the JDC for review, discussion, and approval, including the protocols of all Clinical Trials of the Product to be conducted by Ji Xing in the Territory prior to any patient enrollment. Once approved by the JDC, the updated or amended Development Plan shall become effective. From time to time at its discretion, [*] may propose updates or amendments to the Development Plan if it reasonably believes that the then effective Development Plan is insufficient or may have an adverse effect on [*].

4.4. Technology Transfer. Within [*] subsequent to the Effective Date, the Parties, through the JDC, shall mutually agree upon an initial Technology Transfer Plan, (the "**Technology Transfer Plan**"), for Cytokinetics to provide and transfer to Ji Xing [*]. Thereafter, the Parties shall coordinate in good faith to review and revise the Technology Transfer Plan if necessary. Upon Ji Xing's reasonable request, Cytokinetics shall also provide Ji Xing with reasonable technical assistance in connection with such technology transfer, including reasonable access to Cytokinetics' technical personnel involved in the research and Development of the Compound and Product. [*].

4.5. Development Collaboration.

(a) Cytokinetics shall keep the JDC reasonably informed on its plans (including any updates and amendment thereto) for the global Development of the Product in sufficient detail for Ji Xing to conform the Development of the Product in the Field in the Territory to the Global Development Plan (the "**Global Development Plan"**). Except as expressly agreed [*].

(b) The Parties shall collaborate with respect to the Development of the Product across their territories, and may agree to collaborate in the conduct of LCM Activities, including Clinical Trials conducted subsequent to initial Regulatory Approval of the Product anywhere in the world that are designed to obtain and maintain Regulatory Approval of the Product in subsequent indications in multiple countries and jurisdictions, both in and outside the Territory, through the conduct of Clinical Trials in multiple sites in such countries and jurisdictions as part of one unified Clinical Trial or separately but concurrently in accordance with a common Clinical Trial protocol (any such Clinical Trial, a "**Multi-Region Trial**"). [*].

(c) [*]

(d) [*]

4.6. No Other Research and Development. As of the Effective Date, the Parties intend to focus the Development of the Product in the Territory as specified in the initial Development Plan attached hereto as **Exhibit B**, which will be updated and approved by the JDC as described above. [*].

4.7. Development Cost. Other than as specifically contemplated in Section [*], Ji Xing shall be solely responsible for all the costs and expenses to Develop the Product in the Territory.

4.8. Data Exchange and Use. In addition to its adverse event and safety data reporting obligations pursuant to Section 5.5, subject to Applicable Law and any applicable legal or contractual restrictions (including, without limitation, under the [*]), each Party shall promptly provide the other Party with copies of all data and results and all supporting documentation (e.g., protocols, CRFs, analysis plans) generated from its Development of the Product. Notwithstanding the generality of the foregoing or any other provision of this Agreement, unless otherwise specifically agreed in signed writing by and between the Parties, nothing in this Agreement, shall obligate Cytokinetics to transfer or otherwise make available any Existing Cytokinetics Study Data to Ji Xing or any other person, other than: (i) as Pseudonymized Clinical Trial Data; and (ii) then, only to the limited extent that the same is necessary to enable Ji Xing's pursuit of the Regulatory Approval Purposes under and in accordance with this Agreement. Ji Xing shall only use, transfer,

disclose and otherwise process Existing Cytokinetics Study Data in its form as Pseudonymized Clinical Trial Data for Regulatory Approval Purposes unless and to the extent Ji Xing receives Cytokinetics' prior written consent to Ji Xing's using, transferring, disclosing and otherwise processing Existing Cytokinetics Study Data for purposes other than Regulatory Approval Purposes, which may be conditioned upon the Parties' entering into a suitable data privacy agreement in order to ensure such use, transfer, disclosure and/or processing is in compliance with Applicable Law, as in effect from time to time, including the GDPR. Subject to Section 4.5(d), Ji Xing shall have the right to use the data provided by Cytokinetics for the purpose of obtaining and maintaining Regulatory Approval for and Commercializing the Product in the Field in the Territory. Cytokinetics shall have the right to use the data provided by Ji Xing for the purpose of obtaining and maintaining Regulatory Approval for and Commercializing the Product outside the Territory. The Parties will cooperate to share information (including, without limitation, providing information necessary to conduct transfer impact assessments as to Personal Data cross-border transfers), develop procedures and enter into any necessary arrangements (including, without limitation, any data processing agreements, data sharing agreements or data protection agreements) for the use, transfer, disclosure and other processing of Confidential Information (including, without limitation, Personal Data) in accordance with Applicable Law and any other legal or contractual restrictions (including, without limitation, under the [*]) relating to such Confidential Information.

4.9. Development Records. Ji Xing shall maintain complete, current and accurate records of all Development activities conducted by or on behalf of Ji Xing hereunder, and all data and other information resulting from such activities. Such records shall fully and properly reflect all work done and results achieved in the performance of the Development activities in good scientific manner appropriate for regulatory and patent purposes. Ji Xing shall document all non-clinical studies and Clinical Trials in formal written study reports according to Applicable Laws and national and international guidelines (e.g., ICH, GCP, GLP, and cGMP). Cytokinetics shall have the right to review and copy such records maintained by Ji Xing at reasonable times and to use such records and obtain access to the original for its research and development activities and regulatory and patent purposes or for other legal proceedings.

4.10. Development Reports. Ji Xing shall keep Cytokinetics reasonably informed as to the progress and results of its and its Affiliates' and sublicensees' Development of the Product. Without limiting the foregoing, the status, progress and results of the Development of the Product in the Territory shall be discussed at meetings of the JDC. At least [*] before each regularly scheduled JDC meeting, Ji Xing shall provide the JDC with a written report summarizing its Development activities and the results thereof, covering subject matter at a level of detail reasonably required by Cytokinetics and sufficient to enable Cytokinetics to determine Ji Xing's compliance with its diligence obligations pursuant to Section 4.2. In addition, Ji Xing shall make available to Cytokinetics such additional information about its Development activities as may be reasonably requested by Cytokinetics from time to time.

ARTICLE 5
REGULATORY

5.1. General.

(a) The Development Plan shall set forth the regulatory strategy for seeking Regulatory Approvals of the Product in the Field in each Market in the Territory. Ji Xing shall be responsible for all regulatory activities necessary for obtaining and maintaining Regulatory Approvals of the Product in the Field in the Territory, which regulatory activities shall be performed at Ji Xing's own cost and expense and in accordance with the regulatory strategy set forth in the Development Plan. Through the JDC, Ji Xing shall keep Cytokinetics informed of regulatory developments related to the Product in the Territory, including any decision by any Regulatory Authority in the Territory regarding the Product and Cytokinetics shall keep Ji Xing informed of regulatory developments related to the Product outside the Territory, including any material decision by any Regulatory Authority outside the Territory regarding the Product.

(b) [*].

(c) After the completion of technology transfer under Section 7.5 [*], Ji Xing shall apply for Regulatory Approvals (as domestic product) of the Product that is manufactured domestically in Mainland China in Ji Xing SH's name and, to the extent permitted by Applicable Laws, the Parties shall cooperate in good faith to [*].

5.2. Regulatory Materials. Ji Xing shall use Diligent Efforts to coordinate with Cytokinetics on a schedule for the generation and review of Regulatory Materials and shall provide Cytokinetics with drafts in English of all Regulatory Materials in a reasonable time (in any event no less than [*] for Regulatory Materials other than an NDA or other application for Regulatory Approval or batches of Regulatory Materials to be reviewed concurrently, which shall be drafted and reviewed based on a schedule to be agreed by the Parties) prior to submission for review and comment, and shall consider in good faith any comments received from Cytokinetics, which shall be provided within [*] of receipt [*]. For clarity, [*]. [*]. In addition, Ji Xing shall notify Cytokinetics of any Regulatory Materials submitted to or received from any Regulatory Authority in the Territory and shall provide Cytokinetics with copies thereof within [*] after submission or receipt, and shall notify Cytokinetics of any other material communication with any Regulatory Authority in the Territory within [*] after such communication. If any such Regulatory Material is not in the English language, Ji Xing shall also, [*]. If necessary, Cytokinetics shall assist Ji Xing in addressing any additional requirements requested by any Regulatory Authority in the Territory within a reasonable time (depending on the events), including providing existing supplementary data or documentation.

5.3. Regulatory Meetings. Ji Xing shall provide Cytokinetics with advance notice for any meeting or discussion to be requested with any Regulatory Authority in the Territory related to the Product in accordance with Section 5.2 and shall notify Cytokinetics in writing promptly, but in any event within [*], after its receipt of written notice of any meeting or discussion with any Regulatory Authority in the Territory related to the Product. Ji Xing shall participate in such meeting or discussion as Cytokinetics' representative, provided however that [*].

5.4. Right of Reference. Each Party hereby grants to the other Party the right of reference to all Regulatory Materials pertaining to the Product in the Field submitted by or on behalf of such Party. Subject to Section 4.5(d), Ji Xing may use such right of reference to Cytokinetics' Regulatory Materials in the Field for the purpose of obtaining and maintaining Regulatory Approval of the Product solely for indications in the Development Plan in the Territory, applying for pricing for and admission of the Product to the NRDL and satisfying other Commercialization related regulatory obligations for the Product in the Field in the Territory. Cytokinetics may use such right of reference to Ji Xing's Regulatory Materials in the Field solely for the purpose of obtaining and maintaining Regulatory Approval of the Product outside the Territory.

5.5. Adverse Events Reporting; Quality. At least [*] prior to the expected initiation of the first Clinical Trial under this Agreement, the Parties shall enter into a pharmacovigilance and adverse event reporting agreement setting forth the worldwide pharmacovigilance procedures for the Parties with respect to the Product, such as safety data sharing, adverse events reporting and prescription events monitoring (the "**Pharmacovigilance Agreement**"). Such procedures shall be in accordance with, and enable the Parties to fulfill, local and national regulatory reporting obligations under Applicable Laws. Cytokinetics shall establish and maintain the global safety database for the Product and conduct overall signal detection and benefit risk evaluation of the Product. Each Party shall hold the primary responsibility for reporting quality complaints, adverse events and safety data related to the Product in its territory to such database and to the applicable Regulatory Authorities in its territory, as well as responding to safety issues and to all requests of Regulatory Authorities in its territory related to the Product, in each case at its own cost and to the extent required by the Applicable Laws. Cytokinetics agrees to support Ji Xing on safety issues or safety request related to the Product when output from the global safety database is required. At least [*] prior to the expected initiation of the first Clinical Trial under this Agreement, the Parties shall enter into a clinical quality agreement for the Territory (the "**Clinical Quality Agreement**"). Each Party agrees to comply with its respective obligations under the Pharmacovigilance Agreement and Clinical Quality Agreement and to cause its Affiliates, licensees and sublicensees to comply with such obligations.

5.6. Regulatory Audits and Inspection. Upon [*] notification, Cytokinetics or its representatives shall be entitled to conduct an audit of the regulatory, quality/GCP, and safety/pharmacovigilance systems, Personal Data protection systems, as well as procedures and practices of Ji Xing, its Affiliates, sublicensees or subcontractors (including clinical trial sites) relating to the Development, Manufacture, and Commercialization of and Medical Affairs Activities for the Product in the Field in the Territory. Ji Xing shall provide Cytokinetics with prompt advance notice of any inspection of Ji Xing, its Affiliates, sublicensees or subcontractors by any Regulatory Authority within [*] of being notified of such an inspection by the Regulatory Authority and shall provide Cytokinetics with all information pertinent thereto (including all copies of all notices, filings and correspondences received from or submitted to the Regulatory Authority in connection therewith relating to the Compound or Product). [*]. To the extent required by Applicable Laws, Cytokinetics shall promptly provide Ji Xing with existing documented evidence or materials owned by holder of Regulatory Approvals that are requested by inspectors or otherwise assist Ji Xing with such regulatory inspections. [*].

5.7. No Harmful Actions. If Cytokinetics believes that Ji Xing is taking or intends to take any action with respect to the Compound or Product that could have a material adverse impact upon the regulatory status of the Compound or Product outside the Territory, Cytokinetics shall have the right to bring the matter to the attention of the JDC and the Parties shall promptly meet to discuss in good faith to resolve such concern. Without limiting the foregoing, unless the Parties otherwise agree: (a) Ji Xing shall not communicate with any Regulatory Authority having jurisdiction outside the Territory, unless so ordered by such Regulatory Authority, in which case Ji Xing shall immediately notify Cytokinetics of such order; and (b) Ji Xing shall not submit any Regulatory Materials or seek Regulatory Approvals for the Compound or Product outside the Territory.

5.8. Remedial Actions. Each Party shall notify the other immediately, and promptly confirm such notice in writing, if it obtains information indicating that any Product may be subject to any recall, corrective action or other regulatory action by any Governmental Authority or Regulatory Authority (a "**Remedial Action**"). The Parties shall assist each other in gathering and evaluating such information as is necessary to determine the necessity of conducting a Remedial Action. Ji Xing shall have sole discretion with respect to any matters relating to any Remedial Action in the Territory, including the decision to commence such Remedial Action and the control over such Remedial Action, provided that Ji Xing shall provide advance notice to Cytokinetics and consider in good faith Cytokinetics' comments regarding such Remedial Action. The cost and expenses of any Remedial Action in the Territory shall be borne [*]. Ji Xing shall, and shall ensure that its Affiliates and sublicensees will, maintain adequate records to permit Ji Xing to trace the distribution, sale and use of the Product in the Territory.

ARTICLE 6
MEDICAL AFFAIRS ACTIVITIES

6.1. General. Subject to the terms and conditions of this Agreement, Ji Xing shall be responsible for conducting Medical Affairs Activities for the Product in the Field in the Territory, at Ji Xing's own cost and expense.

6.2. Medical Affairs Plan. Ji Xing shall conduct all Medical Affairs Activities for the Product in the Field in the Territory pursuant to a written Medical Affairs Activities plan that sets forth the timeline and details of all Medical Affairs Activities to be conducted by or on behalf of Ji Xing for the Product in the Field in the Territory (the "**Medical Affairs Plan**"), which plan shall, [*]. Ji Xing shall, in consultation with Cytokinetics, prepare and submit the initial Medical Affairs Plan to the JMAC for review, discussion and approval. The creation of the Medical Affairs Plan will be completed by the JMAC with sufficient lead time so as to allow Medical Affairs Activities pursuant to the Medical Affairs Plan to be initiated no later than [*] months prior to the anticipated date of the First Commercial Sale of the Product in the Territory. Thereafter, from time to time, but at least once every [*], Ji Xing shall propose updates or amendments to the Medical Affairs Plan in consultation with Cytokinetics and submit such proposed updated or amended plan to the JMAC for review, discussion, and approval, including the protocols of all investigator-sponsored and investigator-initiated trials of the Product in the Territory prior to any patient enrollment. Once approved by the JMAC, the updated or amended Medical Affairs Plan shall become effective. From time to time at its discretion, [*] may propose updates or amendments to the Medical Affairs Plan if it reasonably believes that the then effective Medical Affairs Plan is insufficient or may have an adverse effect on [*].

6.3. Coordination of Medical Affairs Activities.

(a) Cytokinetics shall keep the JMAC reasonably informed on its plans (including any updates and amendment thereto) for the global Medical Affairs Activities for the Product (the "**Global Medical Affairs Plan**") in sufficient detail [*].

(b) The Parties shall collaborate with respect to Medical Affairs Activities for the Product across their territories. If the Parties agree to jointly conduct any specific Medical Affairs Activities for the benefit of the Product in both Parties' territories, the Parties shall negotiate and agree on the details of such activities, including allocation of responsibilities, budget and cost sharing. [*]. For clarity, Ji Xing shall not conduct any Medical Affairs Activities for the Product outside the Field or Territory without Cytokinetics' express prior written consent.

6.4. Medical Affairs Activities Reports. Ji Xing shall keep Cytokinetics informed of its, its Affiliates' and sublicensees' Medical Affairs Activities with respect to the Product. Without limiting the foregoing, at each regularly scheduled JMAC meeting, Ji Xing shall provide the JMAC with a reasonably detailed report summarizing the Medical Affairs Activities performed by or on behalf of Ji Xing for the Product in the Field in the Territory. In addition, Ji Xing shall make available to Cytokinetics such additional information about its Medical Affairs Activities as may be reasonably requested by Cytokinetics from time to time.

ARTICLE 7
MANUFACTURE AND SUPPLY

7.1. Supply by Cytokinetics. Except as provided in Section 7.5 below, Cytokinetics shall, either by itself or through its Affiliates or Third Party contract manufacturers (each a "**CMO**"), Manufacture and supply to Ji Xing, and Ji Xing shall purchase from Cytokinetics, [*].

7.2. Purchase Price. Ji Xing shall pay Cytokinetics for the Product supplied by Cytokinetics at a price [*] (the "**Purchase Price**"). The Purchase Price does [*]. Cytokinetics shall deliver the Product to [*] and shall invoice Ji Xing for the Purchase Price upon such delivery. Ji Xing shall pay the invoiced Purchase Price within [*] after the date of the invoice. Upon request from Ji Xing, Cytokinetics shall [*].

7.3. Supply Agreements.

(a) As soon as reasonably practicable after the Effective Date, the Parties shall negotiate and execute a separate temporary supply agreement (the "**Supply Agreement**") setting forth the mutually agreed terms for the Manufacture and supply of the Product to Ji Xing to enable Product launch and LCM Activities in the Territory and additional supply of Product until supply arrangements are established with the Product CMO pursuant to Section 7.5. The Supply Agreement shall be consistent with the terms and conditions of this Agreement.

(b) [*]. The API Supply Agreement shall be consistent with the terms and conditions of this Agreement and shall include mutually agreed and customary terms for such supply agreement, including a detailed forecast and ordering mechanism, including, *inter alia*, a [*] rolling supply forecast and firm purchase order requirement [*] prior to delivery. In addition, the API Supply Agreement shall also provide mechanisms to address Cytokinetics' CMO's failure to supply (to be defined in the API Supply Agreement).

(c) The Parties agree that, following the Effective Date, they shall negotiate and enter into a separate manufacturing quality agreement (the "**Manufacturing Quality Agreement**").

7.4. [*].

7.5. Domestic Manufacture.

(a) [*].

(b) [*].

(c) [*].

(d) [*].

(e) [*].

ARTICLE 8
COMMERCIALIZATION

8.1. General. Subject to the terms and conditions of this Agreement, Ji Xing shall, either by itself or through its Affiliates, sublicensees or Third Party contractor(s), be solely responsible for the Commercialization of the Product in the Field in the Territory, at Ji Xing's own cost and expense, including developing and executing a commercial launch plan, product marketing and promotional efforts, market access and pricing strategies, speaker programs, negotiating with applicable Governmental Authorities regarding the price and reimbursement mechanisms, booking sales, product distribution, providing customer and product support (including handling medical queries), and performing other related functions.

8.2. Commercialization Diligence. Ji Xing shall use Diligent Efforts to (A) [*], and (B) [*]. Without limiting the foregoing, Ji Xing shall use Diligent Efforts to [*]. In addition, Ji Xing shall use Diligent Efforts to [*].

8.3. Commercialization Plan. As of the Effective Date, the Parties have agreed to the initial written Commercialization that sets forth a detailed list of all major Commercialization activities, and associated timelines, planned for the Product in the Territory (the "**Commercialization Plan**"), which is attached hereto as **Exhibit C**. Thereafter, [*], or otherwise from time to time as agreed by the JCC, Ji Xing shall prepare updates or amendments to the Commercialization Plan to reflect changes in such plans, including those in response to changes in the marketplace, relative success of the Product, and other relevant factors influencing such plan and activities, and submit such updated or amended plan to JCC for review and discussion before such updates and amendments become effective. Any updated or amended Commercialization Plan shall in any case incorporate the requirements set forth on Schedule 8.2 and Schedule 8.3. Except as expressly agreed by Cytokinetics in writing (e.g., to the extent required by the applicable Regulatory Authority or to address specific operational requirements in the Territory), the Commercialization Plan shall be [*], and the Commercialization of the Product in the Territory shall be conducted in accordance with the Commercialization Plan as amended from time to time. [*] may propose updates or amendments to the Commercialization Plan if it reasonably believes that the then-effective Commercialization Plan is insufficient or would have a material adverse effect on [*].

8.4. Coordination of Commercialization Activities.

(a) Cytokinetics shall keep the JCC reasonably informed on its plans (including any updates and amendment thereto) for the global Commercialization of the Product (the "**Global Commercialization Plan**") in sufficient detail in order for Ji Xing to [*] the Commercialization of the Product in the Field in the Territory [*].

(b) The Parties recognize that they may benefit from the coordination of certain activities in support of the Commercialization of the Product across their territories. As such, the Parties may coordinate such activities where appropriate, including global launch readiness activities, scientific and medical communication, health economics and product positioning. Ji Xing shall invite Cytokinetics to participate in launch readiness review meetings for the Territory. Ji Xing shall submit to the JCC for review and comment prior to use materials proposed to be used in connection with the promotion and other Commercialization of the Product, and Ji Xing shall consider in good faith Cytokinetics' comments and suggestions regarding such materials; [*]. If the Parties agree to jointly conduct any specific Commercialization activities (including global launch readiness activities) for the benefit of the Product in both Parties' territories, the Parties shall negotiate and agree on the details of such activities, including allocation of responsibilities, budget and cost sharing. [*]. For clarity, Ji Xing shall not conduct any Commercialization of the Product outside the Field or Territory without Cytokinetics' express prior written consent.

8.5. [*]

8.6. Commercialization Reports. Ji Xing shall keep Cytokinetics informed of its, its Affiliates' and sublicensees' Commercialization activities with respect to the Product. Without limiting the foregoing, Ji Xing shall update the JCC at each regularly scheduled JCC meeting regarding the Commercialization activities with respect to the Product in the Territory. Each such update shall be in a form to be agreed by the JCC and shall summarize Ji Xing's, its Affiliates' and sublicensees' significant Commercialization activities with respect to the Product in the Territory, covering subject matter at a level of detail reasonably required by Cytokinetics and sufficient to enable Cytokinetics to determine Ji Xing's compliance with its diligence obligations pursuant to **Section 8.2**. In addition, Ji Xing shall make available to Cytokinetics such additional information about its Commercialization activities as may be reasonably requested by Cytokinetics from time to time. Ji Xing shall [*].

ARTICLE 9
PAYMENTS AND MILESTONES

9.1. Upfront Payment. In partial consideration of the rights granted by Cytokinetics to Ji Xing hereunder, Ji Xing shall pay to Cytokinetics a one-time, non-refundable and non-creditable upfront payment of forty million Dollars ($40,000,000) within [*] of the Effective Date.

9.2. Development Milestone Payments.

(a) **Milestone Events**. Subject to the remainder of this **Section 9.2**, Ji Xing shall pay to Cytokinetics the following one-time, non-refundable and non-creditable Development milestone payment set forth in the table below upon the first achievement of the corresponding milestone event (including where such milestone event is achieved prior to the Effective Date):

Development Milestone Event	**Milestone Payment**
NDA submission to FDA for the Product	$10,000,000

(b) **Milestone Conditions**.

(i) Each milestone payment set forth above shall be due and payable only once, regardless of how many times such milestone event is achieved.

(ii) Each milestone payment set forth above shall be due and payable irrespective of whether such milestone event is achieved by Cytokinetics, Ji Xing, their Affiliates, licensee or sublicensee.

(c) **Notice and Payment**. For the milestone set forth above to be achieved outside the Territory, Cytokinetics shall notify Ji Xing in writing within [*] after the first achievement of such milestone (or, [*]). Ji Xing shall pay to Cytokinetics the corresponding milestone payment within [*] after the delivery or receipt of the notice for the achievement of such milestone.

9.3. Sales Milestone Payments.

(a) **Milestone Events**. Subject to the remainder of this Section 9.3, Ji Xing shall pay to Cytokinetics the following one-time, non-refundable and non-creditable sales milestone payments set forth in the table below upon achievement of each milestone [*].

Sales Milestone Event	Milestone Payment
[*]	$[*]
[*]	$[*]
[*]	$[*]
[*]	$[*]
[*]	$[*]
[*]	$[*]
[*]	$[*]
[*]	$[*]
[*]	$[*]
Total	**$330,000,000**

(b) **Milestone Conditions**. Each sales milestone payment set forth above shall be due and payable only once, regardless of how many times such milestone event is achieved. The aggregate milestone payments under this Section 9.4 shall not exceed three hundred and thirty million Dollars ($330,000,000). For clarity, the sales milestone payments in this Section 9.3 are [*], then the milestone payments for [*] shall be payable.

(c) **Notice and Payment**. As [*], Ji Xing shall provide written notice to Cytokinetics if the [*] set forth in Section 9.3(a) above [*]. Ji Xing shall pay to Cytokinetics the corresponding milestone payments [*].

9.4. Royalty Payments.

(a) **Royalty Rates**. Subject to the remainder of this Section 9.4, Ji Xing shall make quarterly non-refundable royalty payments to Cytokinetics and/or its designated assignee with respect to royalties (the "**Royalty Assignee**") on the Net Sales of all Products sold in the Territory, as calculated by multiplying the applicable royalty rate set forth in the table below by the corresponding amount of incremental, aggregated annual Net Sales of all Products sold in the Territory in the applicable Calendar Year.

For that portion of annual Net Sales of the Product in the Territory		**Royalty Rate**
1) less than	$[*]	[*]%
2) equal to or greater than and less than	$[*] $[*]	[*]%
3) equal to or greater than and less than	$[*] $[*]	[*]%
4) equal to or greater than and less than	$[*] $[*]	[*]%
5) equal to or greater than	$[*]	[*]%

(b) **Royalty Term**. Royalties shall be paid on aggregate annual Net Sales of the Product (with sales of all versions, strengths and SKUs of the Product consolidated) in the Territory. Ji Xing's obligation to pay royalties pursuant to this Section 9.4 shall continue [*] (the "**Royalty Term**").

(c) **Royalty Reductions**.

(i) If a Product is generating Net Sales in a Market during the applicable Royalty Term at a time when a Generic Product with respect to such Product is being sold in such Market, and the [*] (the "**Threshold Amount**"), then the royalty rates applicable to Net Sales of such Product in such Market shall be reduced to [*] of the royalty rates set forth in the table in Section 9.4(a), provided that, [*], and provided, further, that [*].

(ii) If at any time during the Royalty Term [*], then the royalty rates applicable to Net Sales of such Product in such Market shall be reduced [*].

(iii) If it is necessary for Ji Xing to obtain a license from a Third Party to any Patent owned by such Third Party in order to sell the Product in a Market in the Territory and Ji Xing obtains such a license (and Cytokinetics had not obtained a license to such Patent pursuant to Section 2.7(b) Ji Xing shall have the right to deduct, from the royalty payment that would otherwise have been due pursuant to this Section 9.4 with respect to Net Sales of such Product in such Market in a particular Calendar Quarter, an amount equal to [*] of all payments by Ji Xing to such Third Party pursuant to such license on account of the sale of such Product in such Market during such Calendar Quarter. Payments made by Ji Xing to Cytokinetics pursuant to Section 2.7(b) shall not be a basis for royalty reduction under this Section 9.4(c)(iii).

(iv) Notwithstanding the foregoing, in no event shall the operation of Sections 9.4(c)(i), (ii) or (iii), individually or in combination, reduce the royalties paid to Cytokinetics with respect to the Net Sales of any Product in any Market in the Territory in any Calendar Quarter to less than [*] of the amount that would otherwise have been due pursuant to Section 9.4(a) with respect to such Net Sales; provided that [*].

(d) **Basis for Royalty**. This Section 9.4 is intended to provide for payments to Cytokinetics equal to the percentages of Net Sales set forth in this Section 9.4 for the duration of the Royalty Term. In establishing this payment structure, the Parties recognize, and Ji Xing acknowledges, the substantial value of the various actions and investments undertaken by Cytokinetics prior to the Effective Date and that Cytokinetics will undertake under this Agreement, and that the value of the Cytokinetics IP licensed to Ji Xing hereunder resides substantially in Cytokinetics Know-How. As a result, the Parties attribute such value to Cytokinetics' leading proprietary knowledge in the subject matter, including trade secrets, preclinical and clinical data pertaining to the Compound and Product, and regulatory filings made by Cytokinetics prior to the Effective Date, in each case created or generated by Cytokinetics through the expenditure of significant resources and as a result of Cytokinetics' unique innovative capabilities. The Parties agree that because Cytokinetics is not separately compensated under this Agreement for such additional benefits, the royalties set forth above are appropriate for the duration of the Royalty Term. The Parties have agreed to the payment structure set forth herein as a convenient and fair mechanism for both Parties in order to compensate Cytokinetics for these additional benefits as part of the overall consideration for Cytokinetics to enter into this Agreement.

(e) **Royalty Report and Payment**. Within [*] after the end of each Calendar Quarter, commencing with the first Calendar Quarter in which there is any sale of the Product anywhere in the Territory, Ji Xing shall provide Cytokinetics with a report that contains the following information for the applicable Calendar Quarter, on a Market-by-Market basis: (i) the amount of gross sales of the Product, (ii) an itemized calculation of Net Sales showing separately each type of deduction provided for in the definition of "Net Sales," (iii) a calculation of the royalty payment due on such sales in Dollars, including the exchange rate and any reduction under Section 9.4(c), and (iv) the aggregate Net Sales of the past twelve (12) months and whether any sales milestone has been achieved. Concurrent with the delivery of the applicable quarterly report, Ji Xing shall pay to Cytokinetics in Dollars the royalties owed with respect to Net Sales for such Calendar Quarter.

9.5. Currency; Exchange Rate; Blocked Currency. All payments to be made by Ji Xing to Cytokinetics under this Agreement shall be made in Dollars by bank wire transfer in immediately available funds to a bank account designated by written notice from Cytokinetics. The rate of exchange to be used in computing the amount of currency equivalent in Dollars shall be made at the average of the closing exchange rates reported in The Wall Street Journal (U.S., Eastern Edition) for the first, middle and last Business Days of the applicable reporting period for the payment due. In the event that, by reason of Applicable Laws in any country or region in the Territory, it becomes impossible or illegal for Ji Xing to transfer, or have transferred on its behalf, payments owed to Cytokinetics hereunder, Ji Xing will promptly notify Cytokinetics of the conditions preventing such transfer and such payments will be deposited in local currency in the relevant country to the credit of Cytokinetics in a recognized banking institution designated by Cytokinetics or, if none is designated by Cytokinetics within a period of [*], in a recognized banking institution selected by Ji Xing, as the case may be, and identified in a written notice given to Cytokinetics.

9.6. Late Payments. Time is of the essence in respect of all payment obligations under Sections 9.1, 9.2, 9.3, and 9.4 above. In addition, if Cytokinetics does not receive undisputed payment of any sum due to it on or before the due date therefor, simple interest shall thereafter accrue on the sum due to Cytokinetics from the due date until the date of payment at a per-annum rate of [*] or the maximum rate allowable by Applicable Laws, whichever is less.

9.7. Financial Records and Audits. Ji Xing shall (and shall ensure that its Affiliates and sublicensees will) maintain complete and accurate records in accordance with GAAP and in sufficient detail for [*] from the creation of such individual records to permit Cytokinetics to confirm the accuracy of Net Sales reported by Ji Xing and amounts payable under this Agreement. Upon no less than [*] prior notice, such records shall be open for examination, during regular business hours, for a period of [*] from the creation of individual records, and not more often than once each Calendar Year, by an independent certified public accountant selected by Cytokinetics and reasonably acceptable to Ji Xing, for the sole purpose of verifying for Cytokinetics the accuracy of the Net Sales and royalty reports provided by Ji Xing under this Agreement. Any such auditor shall not disclose Ji Xing's or its Affiliates' or sublicensees' Confidential Information, except to the extent such disclosure is necessary to verify the accuracy of Net Sales reported by Ji Xing and amounts payable under this Agreement. Cytokinetics shall bear the cost of such audit [*]. Ji Xing shall pay to Cytokinetics any undisputed underpayment discovered by such audit within [*] after the accountant's report, plus interest (as set forth in Section 9.6) from the original due date. Any overpayment by Ji Xing revealed by an audit shall be fully-creditable against future payment owed by Ji Xing to Cytokinetics (and if no further payments are due, shall be refunded by Cytokinetics at the request of Ji Xing). Ji Xing shall include in each relevant sublicense granted by it a provision requiring the sublicensee to maintain records of sales of the Product made pursuant to such sublicense and to grant access to such records to the same extent and under the same obligations as required of Ji Xing under this Agreement.

9.8. Payments and Reports to Royalty Assignee. Cytokinetics may direct Ji Xing to make a portion of any payments, or deliver any reports, with respect to Sections 9.4(e), 9.5, 9.6 and 9.7 hereunder to its Royalty Assignee in addition to Cytokinetics by giving written notice to Ji Xing to such effect. Without limiting the foregoing, Ji Xing will provide any additional information requested by Cytokinetics to enable reporting of financial or other information to its Royalty Assignee.

9.9. Taxes.

(a) **Taxes on Income**. [*], including applicable withholding taxes, VAT, stamp duty or other taxes required by Applicable Laws. In particular, with respect to any [*].

(b) **Tax Cooperation**. The Parties agree to cooperate with one another and use reasonable efforts to avoid or reduce tax withholding or similar obligations in respect of royalties, milestone payments, and other payments made under this Agreement. To the extent Ji Xing is obligated to deduct and withhold taxes on any payment to Cytokinetics, [*]. Cytokinetics shall provide Ji Xing [*] under an applicable bilateral income tax treaty between the applicable countries within the Territory and the U.S. and countries in which Cytokinetics has operations. Cytokinetics shall use reasonable efforts to provide [*]. At the request of Cytokinetics, Ji Xing shall provide reasonable assistance and cooperation to enable the recovery, to the extent permitted by Applicable Laws, of withholding taxes or similar obligations resulting from payments made under this Agreement.

(c) **Tax Status**. [*].

(d) [*].

ARTICLE 10
INTELLECTUAL PROPERTY

10.1. Background IP. The Background IP shall remain the sole and exclusive property of Cytokinetics or, to the extent Cytokinetics in-licenses the respective Background IP, shall be the property of Cytokinetics' applicable licensors. The Parties also acknowledge and agree that Cytokinetics shall have the sole right to file, maintain, prosecute and enforce (subject to Section 10.4) any and all its Intellectual Property Rights in the Background IP and such right is not affected or governed by the provisions of Sections 10.2 (Arising Product IP), 10.3 (Patent Prosecution) and 10.5 (Infringement of Third Party Rights) below. Notwithstanding the foregoing [*], if Cytokinetics intends to abandon or cease prosecution or maintenance of any Background IP which is also Cytokinetics IP in the Territory, excluding abandonment of a patent application where there is a co-pending patent application in the same patent family in the jurisdiction or country, Cytokinetics shall provide prior notice to Ji Xing of such intention (which notice must be given at least [*] in advance of the next deadline to take any action in the relevant patent office necessary to maintain existing rights in any such Cytokinetics IP). [*] upon Ji Xing's written election provided no later than [*] after such notice from Cytokinetics, Cytokinetics shall either (i) continue prosecution and maintenance of such Cytokinetics IP at Ji Xing's direction and expense or (ii) permit Ji Xing to assume prosecution and maintenance of such Cytokinetics IP at its own expense and using patent counsel of its choosing; [*]. The Parties acknowledge and agree that nothing in this Agreement shall operate to limit or otherwise affect Cytokinetics' rights in connection with the filing, maintenance, or prosecution of any Intellectual Property Rights of Cytokinetics that are included in the Background IP [*].

10.2. Arising Product IP.

(a) Except as set forth in Section 10.2(b) below, ownership of all Arising Product IP shall be based on inventorship, as determined in accordance with the rules of inventorship under United States patent laws. Each Party shall solely own any Arising Product IP made solely by its and its Affiliates' employees, agents, or independent contractors. The Parties shall jointly own any Arising Product IP that are made jointly by employees, agents, or independent contractors of one Party and its Affiliates together with by employees, agents, or independent contractors of the other Party and its Affiliates. Except to the extent either Party is restricted by the licenses granted to the other Party under this Agreement, each Party shall be entitled to practice, license, assign and otherwise exploit any Arising Product IP jointed owned by the Parties (including any Patent claiming such jointly owned Arising Product IP), without a duty of accounting or seeking consent from the other Party.

(b) Notwithstanding Section 10.2(a), Cytokinetics shall [*]. Ji Xing shall [*]. For clarity, [*].

(c) Each Party shall promptly disclose to the other Party all Arising Product IP invented or generated by or on behalf of such Party under this Agreement, including any invention disclosures, or other similar documents, submitted to it by its employees, agents or independent contractors describing such Arising Product IP, and shall promptly respond to reasonable requests from the other Party for additional information relating to such Arising Product IP.

10.3. Patent Prosecution.

(a) As between the Parties, Cytokinetics shall have the first right to file, prosecute and maintain all Cytokinetics Patents and Patents claiming any Arising Product IP (including jointly owned Patents) (collectively, the "**Cytokinetics Prosecuted Patents**") throughout the world. Cytokinetics shall be responsible for the cost and expenses of filing, prosecuting and maintaining the Cytokinetics Prosecuted Patents both inside and outside the Territory.

(b) Cytokinetics shall consult with Ji Xing and keep Ji Xing reasonably informed of the status of the Cytokinetics Prosecuted Patents in the Field in the Territory and shall promptly provide Ji Xing with all material correspondence received from any patent authority in the Territory in connection therewith. In addition, Cytokinetics shall promptly provide Ji Xing with drafts of all proposed material filings and correspondence to any patent authority in the Territory with respect to the Cytokinetics Prosecuted Patents in the Field for Ji Xing's review and comment prior to the submission of such proposed filings and correspondences. [*].

(c) Ji Xing shall provide Cytokinetics all reasonable assistance and cooperation in the patent prosecution efforts under this Section 10.3 at its own expense, including providing any necessary powers of attorney and executing any other required documents or instruments for such prosecution.

(d) If Cytokinetics intends to abandon or cease prosecution or maintenance of any Cytokinetics Prosecuted Patent in the Territory, Cytokinetics shall provide prior notice to Ji Xing of such intention (which notice must be given at least [*] in advance of the next deadline to take any action in the relevant patent office necessary to maintain existing rights in any such Cytokinetics Prosecuted Patent). Upon Ji Xing's written election provided no later than [*] after such notice from Cytokinetics, Cytokinetics shall either (i) continue prosecution and maintenance of such Cytokinetics Prosecuted Patent at Ji Xing's direction and expense or (ii) permit Ji Xing to assume prosecution and maintenance of such Cytokinetics Prosecuted Patent at its own expense and using patent counsel of its choosing, unless Cytokinetics has indicated that its abandonment, cessation of prosecution or maintenance in the Territory is in relation to a Cytokinetics Prosecuted Patent that is in the same patent family in the same jurisdiction as a co pending patent application in such jurisdiction (a "**Co-Pending Patent Application**"). If Cytokinetics decides to abandon or cease prosecution or maintenance and Ji Xing elects to assume prosecution or maintenance of any Cytokinetics Prosecuted Patent in accordance with this Section 10.3 and there is no applicable Co-Pending Patent Application in relation thereto, for the avoidance of doubt, such Cytokinetics Prosecuted Patent shall no longer be a Cytokinetics Patent for the purposes of royalty payment provisions under Section 9.4 of this Agreement.

(e) Each Party shall, and shall cause its Affiliates and Representatives to, provide all reasonable assistance and cooperation in connection with prosecution and maintenance activities under this Section 10.3, including by making its employees, agents, and independent contractors reasonably available and executing any necessary documents or instruments, including powers of attorney.

10.4. Patent Enforcement.

(a) Each Party shall promptly notify the other Party if it becomes aware of any alleged or threatened infringement by a Third Party of any of the Cytokinetics Patents, which infringement adversely affects or is expected to adversely affect the Product in the Field in the Territory, and any related declaratory judgment, opposition, or similar action alleging the invalidity, unenforceability or non-infringement of any of the Cytokinetics Patents in the Territory (collectively "**Product Infringement**").

(b) To the extent not inconsistent with or otherwise in violation of the [*] and any other Third Party rights, as between the Parties, Ji Xing shall have the first right to bring and control any legal action in connection with such Product Infringement in the Territory at its own expense as it reasonably determines appropriate. If Ji Xing does not bring such legal action within [*] after the notice provided pursuant to Section 10.4(a), Cytokinetics shall have the right to bring and control any legal action in connection with such Product Infringement in the Territory at its own expense as it reasonably determines appropriate.

(c) At the request and expense of the Party bringing an action under Section 10.4(b) above, the other Party shall provide reasonable assistance in connection therewith, including by executing reasonably appropriate documents, cooperating in discovery and joining as a party to the action if required by Applicable Laws to pursue such action. In connection with any such enforcement action, the enforcing Party shall keep the other Party reasonably informed on the status of such action and shall not enter into any settlement admitting the invalidity or non-infringement of, or otherwise impairing the other Party's rights in the Cytokinetics Patents without the prior written consent of the other Party. The non-enforcing Party shall be entitled to separate representation in such enforcement action by counsel of its own choice and at its own expense.

(d) Any recoveries resulting from enforcement action relating to a claim of Product Infringement in the Territory brought under and in accordance with Section 10.4(b) above shall be first applied against payment of each Party's costs and expenses in connection therewith. Any such recoveries in excess of such costs and expenses shall be retained by the enforcing Party, provided that if Ji Xing is the enforcing Party, then such excess recoveries [*].

(e) Cytokinetics shall have the exclusive right to bring and control any legal action to enforce the Cytokinetics Patents against any infringement that is not a Product Infringement or is outside the Territory, in each case at its own expense and as it reasonably determines appropriate, and shall have the right to retain all recoveries.

10.5. Infringement of Third Party Rights.

(a) Each Party shall notify the other Party of any allegations it receives from a Third Party that the Development, Manufacture or Commercialization of any Product in the Field in the Territory under this Agreement infringes the intellectual property rights of such Third Party. Such notice shall be provided promptly, but in no event after more than [*] following receipt of such allegations. Such notice shall include a copy of any summons or complaint (or the equivalent thereof) received regarding the foregoing. Thereafter, the Parties shall promptly meet to consider the claim or assertion and the appropriate course of action and may, if appropriate, agree on and enter into a "common interest agreement" wherein the Parties agree to their shared, mutual interest in the outcome of such potential dispute. Each Party shall assert and not waive the joint defense privilege with respect to all communications between the Parties.

(b) Ji Xing shall be solely responsible for the defense of any such infringement claims brought against Ji Xing, at Ji Xing's own cost and expense; provided, however, that the provisions of Section 10.4 shall govern the right of Ji Xing to assert a counterclaim of infringement of any Cytokinetics Patents; and provided further that Ji Xing shall [*]. Ji Xing shall keep Cytokinetics informed on the status of such defense action, and Cytokinetics shall have the right, but not the obligation, to participate and be separately represented in such defense action at its sole option and at its own expense. Cytokinetics shall also have the right to control the defense of any infringement claim brought against Cytokinetics, at Cytokinetics' own cost and expense.

10.6. Patents Licensed From Third Parties. Each Party's rights under this Article 10 with respect to the prosecution and enforcement of any Cytokinetics Patent that is licensed by Cytokinetics from a Third Party shall be subject to the rights of such Third Party to prosecute and enforce such Patent, including the rights of [*].

10.7. Patent Marking. Ji Xing shall mark the Product sold in the Territory in accordance with the applicable patent marking laws, and shall require all of its Affiliates and sublicensees to do the same. Ji Xing shall not use Cytokinetics' corporate name or logo on the Product packaging or trade dress, advertisement and promotional materials without Cytokinetics' prior written consent, which shall not be unreasonably delayed, withheld or conditioned, unless required by Applicable Laws, and provided that any such use by Ji Xing will be in a manner agreed by the Parties.

10.8. Trademarks.

(a) Ji Xing acknowledges that Cytokinetics may develop a global branding strategy for the Product and adopt the key distinctive colors, logos, images, symbols, and trademarks to be used in connection with the Commercialization of the Product throughout the world (such branding elements, collectively, the "**Global Brand Elements**"). Cytokinetics shall own all rights in the Global Brand Elements and shall register and maintain the Global Brand Elements in any country in the world as it determines reasonably necessary, at Cytokinetics' own cost and expense. Subject to the terms and conditions of this Agreement (including Section 11.5(a)), Cytokinetics hereby grants Ji Xing an exclusive, royalty free license, with the right to sublicense pursuant to Section 2.2 solely to use the then-current Global Brand Elements in Commercializing the Product in the Field in the Territory. Ji Xing shall Commercialize the Product in the Territory using the Global Brand Elements [*].

(b) Subject to Section 10.8(a) above, in respect of trademarks only, to the extent Cytokinetics does not have a registered trademark or has not filed for trademark registration for a specific mark that constitutes a Global Brand Element in a particular Market in the Territory, Ji Xing shall have the right to brand the Product sold in such Market in the Territory using any trademarks it determines appropriate for such specific branding element, which may vary by Market or within a Market (the "**Product Marks**"); provided that Ji Xing shall, through the JCC, consult with Cytokinetics and obtain Cytokinetics' written consent, which shall not be unreasonably delayed, withheld or conditioned, regarding the selection and use of the Product Marks, including the Hanzi representation. Ji Xing shall own all rights in the Product Marks in the Territory and shall register and maintain the Product Marks in the Territory that it determines reasonably necessary, at Ji Xing's own cost and expense.

ARTICLE 11
CONFIDENTIALITY

11.1. Confidentiality. Except to the extent expressly authorized by this Agreement or otherwise agreed in writing by the Parties, each Party agrees that, for the Term and for a period of [*] thereafter, it shall keep confidential and shall not publish or otherwise disclose and shall not use for any purpose other than as provided for in this Agreement (which includes the exercise of any rights or the performance of any obligations hereunder) any Confidential Information of the other Party pursuant to this Agreement.

11.2. Exceptions. The foregoing confidentiality and non-use obligations shall not apply to any portion of the Confidential Information that the receiving Party can demonstrate by competent written proof:

(a) was already known to the receiving Party, other than under an obligation of confidentiality, at the time of disclosure by the other Party;

(b) was generally available to the public or otherwise part of the public domain at the time of its disclosure to the receiving Party;

(c) became generally available to the public or otherwise part of the public domain after its disclosure and other than through any act or omission of the receiving Party in breach of this Agreement;

(d) is subsequently disclosed to the receiving Party by a Third Party who has a legal right to make such disclosure; or

(e) is subsequently independently discovered or developed by the receiving Party without the aid, application, or use of the disclosing Party's Confidential Information, as evidenced by a contemporaneous writing.

11.3. Authorized Disclosure. Notwithstanding the obligations set forth in Section 11.1, a Party may disclose the other Party's Confidential Information and the terms of this Agreement to the extent:

(a) such disclosure is reasonably necessary: (i) for the filing or prosecution of Patents as contemplated by this Agreement; (ii) in connection with regulatory filings for the Product; or (ii) for the prosecuting or defending litigation as contemplated by this Agreement;

(b) such disclosure is reasonably necessary: (i) to such Party's directors, attorneys, independent accountants or financial advisors for the sole purpose of enabling such directors, attorneys, independent accountants or financial advisors to provide advice to the receiving Party, provided that in each such case on the condition that such directors, attorneys, independent accountants and financial advisors are bound by confidentiality and non-use obligations consistent with those contained in this Agreement; or (ii) to actual or potential investors, acquirors, licensors, licensees, collaborators or other business or financial partners (including royalty financing partners) solely for the purpose of evaluating or carrying out an actual or potential investment, acquisition, license, collaboration, financing or other business transaction; provided that in each such case on the condition that such disclosees are bound by confidentiality and non-use obligations consistent with those contained in the Agreement; or

(c) such disclosure is required by judicial or administrative process, provided that in such event such Party shall promptly inform the other Party such required disclosure and provide the other Party an opportunity to challenge or limit the disclosure obligations. Confidential Information that is disclosed by judicial or administrative process shall remain otherwise subject to the confidentiality and non-use provisions of this Article 11, and the Party disclosing Confidential Information pursuant to law or court order shall take all steps reasonably necessary, including seeking of confidential treatment or a protective order to ensure the continued confidential treatment of such Confidential Information.

Notwithstanding any other provision hereof, a Party who discloses the other Party's Confidential Information or the terms of this Agreement to a Third Party pursuant to Section 11.3(b) shall be liable to the other Party if such Third Party violates the terms of its confidentiality obligation or any of the terms set forth in this Agreement as if such Third Party was a party hereto.

11.4. Scientific Publication. Except to the extent required by Applicable Laws, Ji Xing shall not publish any peer-reviewed manuscripts, or give other forms of public disclosure such as abstracts and presentations, relating to the Product, including the data and results of the Development of the Product, without Cytokinetics' review and approval, which approval shall not be unreasonably withheld, delayed or conditioned. Ji Xing shall deliver to Cytokinetics for review and approval a copy in English of any proposed scientific publication or presentation relating to the Product at least [*] before its intended submission for publication. Cytokinetics shall have the right to require modifications of the proposed publication or presentation to protect Cytokinetics' Confidential Information and for trade secret reasons [*]. Cytokinetics may also delay the submission of the proposed publication or presentation for an additional [*] as may be reasonably necessary to seek patent protection for the information disclosed in such proposed publication or presentation. Ji Xing agrees to acknowledge the contribution of Cytokinetics and Cytokinetics' employees in all publications as scientifically appropriate.

11.5. Publicity.

(a) The Parties may each issue a press release announcing this Agreement in a form approved in writing by the other Party ahead of the announcement. Subject to the rest of this Section 11.5, no disclosure of the terms of this Agreement may be made by either Party, and no Party shall use the name, trademark, trade name or logo of the other Party, its Affiliates or their respective employee(s) in any publicity, promotion, news release or disclosure relating to this Agreement or its subject matter, without the prior express written permission of the other Party, except as may be required by Applicable Laws.

(b) A Party may disclose this Agreement and its terms in its periodic securities filings with the Securities Exchange Commission ("**SEC**") (or equivalent foreign agency) to the extent required by Applicable Laws, provided that prior to such filing, Cytokinetics shall prepare redacted version of this Agreement with such redactions that it reasonably determines to be permissible under Item 601(b)(10)(iv) of Regulation S-K and provide a copy thereof to Ji Xing for its review. Ji Xing shall have up to [*] to consider Cytokinetics' proposed redactions and to propose additional redactions. Cytokinetics shall consider Ji Xing's additional reactions in good faith but shall have no obligation to accept redactions that are not permissible under Item 601(b)(10)(iv) of Regulation S-K.

(c) Each Party acknowledges that the other Party may be legally required to make public disclosures (including in filings with the SEC or other agency) of certain material developments or material information generated under this Agreement and agrees that each Party may make such disclosures as required by Applicable Laws, *provided* that the Party seeking such disclosure first provides the other Party a copy of the proposed disclosure, and provided further that (except to the extent that the Party seeking disclosure is required to disclose such information to comply with Applicable Laws) if the other Party demonstrates to the reasonable satisfaction of the Party seeking disclosure, within [*] of such Party's providing the copy, that the public disclosure of previously undisclosed information will materially adversely affect the development and/or commercialization of a Product being developed and/or commercialized, the Party seeking disclosure will remove from the disclosure such specific previously undisclosed information as the other Party shall reasonably request to be removed.

(d) Other than the initial press release as described in Section 11.5(a) above and any public disclosure made pursuant to Section 11.5(c), the Parties agree that the portions of any other news release or other public announcement relating solely and specifically to the Development or Commercialization of the Product in the Territory that would disclose information other than that already in the public domain, shall first be reviewed and approved by both Parties (with such approval not to be unreasonably withheld or delayed); provided, however, that notwithstanding the foregoing, each Party shall have the right to disclose publicly (including on its website): (i) the fact that it has entered into this Agreement; (ii) the commencement, progress, status, completion and key results of each clinical trials conducted by the Parties under this Agreement; (iii) the receipt of any milestone or royalty payments from Ji Xing under this Agreement; (iv) Regulatory Approval of any Product in the Territory; and (v) the First Commercial Sale of any Product in the Territory. For each such disclosure, unless a Party otherwise has the right to make such disclosure under this Article 11, such Party shall provide the other Party with a draft of such disclosure at least [*] prior to its intended release for such other Party's review and comment, and shall consider such other Party's comments in good faith. If the disclosing Party does not receive comments from the other Party within [*], the disclosing Party shall have the right to make such disclosure without further delay. The Parties shall use reasonable efforts to coordinate the timing of such disclosures to be outside the trading hours of the NASDAQ, provided that Cytokinetics shall not be required to so delay such a disclosure where such delay would reasonably be expected to give rise to liability for or sanctions upon Cytokinetics in Cytokinetics' sole judgment.

(e) The Parties agree that after a disclosure pursuant to Section 11.5(b), a press release (including the initial press release) or other public announcement pursuant to Section 11.5(a), 11.5(c) or 11.5(d) has been reviewed and approved by the other Party, either Party may make subsequent public disclosures reiterating such information without having to obtain the other Party's prior consent or approval.

11.6. Prior CDAs. This Agreement supersedes the Mutual Non-Disclosure Agreement between Cytokinetics and Ji Xing's Affiliate, Ji Xing Pharmaceuticals (Shanghai) Co., Ltd., dated [*] and the Mutual Non-Disclosure Agreement between Cytokinetics and Ji Xing's Affiliate, Ji Xing Pharmaceuticals, Inc., dated [*] (the "**Prior CDAs**") with respect to information disclosed thereunder. All information exchanged between the Parties under the Prior CDAs shall be deemed Confidential Information of the disclosing Party and shall be subject to the terms of this Article 11. This Section 11.6 is without prejudice to any accrued rights under the Prior CDAs and shall not be deemed to have released or discharged any accrued liabilities of any Party under the Prior CDAs.

11.7. Equitable Relief. Each Party acknowledges that a breach of this Article 11 cannot reasonably or adequately be compensated in damages in an action at law and that such a breach shall cause the other Party irreparable injury and damage. By reason thereof, each Party agrees that the other Party shall be entitled, in addition to any other remedies it may have under this Agreement or otherwise, to preliminary and permanent injunctive and other equitable relief to prevent or curtail any breach of the obligations relating to Confidential Information set forth herein.

11.8. Attorney-Client Privilege. Neither Party is waiving, nor shall be deemed to have waived or diminished, any of its attorney work product protections, attorney-client privileges or similar protections and privileges or the like as a result of disclosing information pursuant to this Agreement, or any of its Confidential Information (including Confidential Information related to pending or threatened litigation) to the other Party, regardless of whether the disclosing Party has asserted, or is or may be entitled to assert, such privileges and protections. The Parties: (a) share a common legal and commercial interest in such disclosure that is subject to such privileges and protections; (b) are or may become joint defendants in proceedings to which the information covered by such protections and privileges relates; (c) intend that such privileges and protections remain intact should either Party become subject to any actual or threatened proceeding to which the disclosing Party's Confidential Information covered by such protections and privileges relates; and (d) intend that after the Effective Date both the receiving Party and the disclosing Party shall have the right to assert such protections and privileges.

11.9. Information Security Incident.

(a) **Notification**. Each Party shall without undue delay (and in any event within [*] hours) upon becoming aware of an Information Security Incident or circumstances that are likely to give rise to an Information Security Incident with respect to the other Party's Confidential Information notify the other Party. To the extent information is known, such notification shall at a minimum:

(i) describe the nature of the Information Security Incident (including, to the extent relevant, the categories and numbers of individuals concerned as well as the categories and numbers of Personal Data records concerned);

(ii) communicate the name and contact details of the relevant contact from whom the other Party may obtain more information;

(iii) describe the likely consequences of the Information Security Incident; and

(iv) describe the measures taken or proposed to be taken to address the Information Security Incident.

As it becomes known, the Party that experienced such Information Security Incident shall reasonably update the other Party with information concerning the Information Security Incident.

(b) **Response**. In the event of an Information Security Incident related to the other Party's Confidential Information, the Party that experienced such Information Security Incident shall reasonably cooperate with the other Party and take commercially reasonable steps to assist the other Party's investigation, mitigation and remediation of the Information Security Incident.

(c) **Non-Disclosure**. In the event that a Party experiences an Information Security Incident related to the other Party's Confidential Information, the Party that experienced such Information Security Incident shall not inform any Third Party through which it identifies the other Party or by which the other Party is reasonably identifiable, except as may be required by Applicable Law (or consistent with prior disclosure) or as otherwise reasonably necessary to avoid the breach of any agreement with a Third Party, without first obtaining the other Party's prior written consent.

ARTICLE 12
REPRESENTATIONS AND WARRANTIES

12.1. Representations and Warranties of Each Party. Each Party represents, warrants, and covenants (as applicable) to the other Party that:

(a) it is a company or corporation duly organized, validly existing, and in good standing under the laws of the jurisdiction in which it is incorporated, and is duly licensed or qualified to do business and is in corporate good standing in each jurisdiction in which the nature of the business conducted by it or the character or location of the properties and assets owned, leased or operated by it makes such licensing or qualification necessary, except where the failure to be so licensed or qualified and in corporate good standing has not and would not reasonably be expected to have, either individually or in the aggregate, a material adverse effect on the business of such Party;

(b) it has the corporate power and authority to enter into this Agreement and perform its obligations hereunder, it has taken all necessary corporate action on its part required to authorize the execution and delivery of the Agreement and the performance of its obligations hereunder, and this Agreement has been duly executed and delivered on behalf of such Party, and constitutes a valid and binding obligation of such Party that is enforceable against it in accordance with its terms;

(c) it is not a party to, and will not enter into during the Term, any agreement that would prevent it from granting the rights granted to the other Party under this Agreement or performing its obligations under the Agreement; and

(d) in the course of performing its obligations or exercising its rights under this Agreement, it shall comply with all Applicable Laws, including as applicable, cGMP, GCP, and GLP standards and data privacy laws, and shall not employ or engage any person or entity who has been debarred by any Regulatory Authority or otherwise excluded by any Governmental Authority from participating in any program sponsored or administered by a Governmental Authority, or, to such Party's knowledge, is the subject of debarment or exclusion proceedings or investigation by a Regulatory Authority or other Governmental Authority.

12.2. Representations and Warranties of Cytokinetics. Cytokinetics represents, warrants, and covenants (as applicable) to Ji Xing that:

(a) it has the right under the Cytokinetics IP to grant the licenses to Ji Xing as purported to be granted under Section 2.1 of this Agreement;

(b) it has not granted, and will not grant during the Term, any license or other right under the Cytokinetics IP that is inconsistent with the license granted to Ji Xing under Section 2.1 or any of the Upstream Licenses;

(c) Cytokinetics has delivered to Ji Xing a complete list of all Cytokinetics Patents in the Territory as of the Effective Date (the "**Existing Territory Patents**"). The Existing Territory Patents (i) as of the Effective Date, to Cytokinetics' Knowledge, are granted or pending and not abandoned, (ii) are either solely and exclusively owned by Cytokinetics, free of any encumbrance, lien or claim of ownership by any Third Party or are exclusively licensed to Cytokinetics, and (iii) have been and will continue to be properly maintained and diligently prosecuted in the respective patent offices in the Territory in accordance with Applicable Laws, except as provided in Section 10.3(d). [*] all fees applicable as of the Effective Date, if any, for prosecuting or maintaining the Existing Territory Patents have been fully and timely paid.

(d) all inventor assignments with respect to inventions claimed in the Existing Territory Patents have been or will be properly executed, recorded and perfected as necessary at each respective patent office in the Territory in accordance with Applicable Law;

(e) except as disclosed pursuant to a side letter entered into among Cytokinetics, Ji Xing and Ji Xing's external counsel as of the Effective Date, there are no pending or, to Cytokinetics' Knowledge, alleged or threatened, (a) inter partes reviews, post-grant reviews, interferences, post-grant re-examinations or oppositions involving the Existing Territory Patents that are in or before any patent authority (or other governmental authority performing similar functions) or (b) any inventorship challenges involving the Existing Territory Patents that are in or before any patent or other governmental authority;

(f) except as disclosed pursuant to a side letter entered into among Cytokinetics, Ji Xing and Ji Xing's external counsel as of the Effective Date, no claim or litigation has been brought or asserted (and Cytokinetics has no Knowledge of any claim, whether or not brought or asserted) by any Third Party alleging that (i) the Existing Territory Patents are invalid or unenforceable or (ii) the conception, development, reduction to practice, disclosing, copying, making, assigning or licensing of the Existing Territory Patents or the Cytokinetics Know-How (including the existing Regulatory Materials) or the exploitation of a Compound or Product as contemplated herein, violates, infringes, constitutes misappropriation or otherwise conflicts or interferes with or would violate, infringe or otherwise conflict or interfere with, any intellectual property or proprietary right of any Third Party;

(g) to Cytokinetics' Knowledge, the conception, development, and reduction to practice of the Existing Territory Patents and Cytokinetics Know-How existing as of the Effective Date have not constituted or involved the misappropriation of trade secrets or other rights or property of any Third Party;

(h) [*] no Third Party is infringing or threatening to infringe or misappropriating or threatening to misappropriate the Existing Territory Patents or the Cytokinetics Know-How;

(i) it has not received any written notice from any Third Party asserting or alleging that the Development of the Compound or Product prior to the Effective Date infringed or misappropriated the intellectual property rights of such Third Party;

(j) except as disclosed pursuant to a side letter entered into among Cytokinetics, Ji Xing and Ji Xing's external counsel as of the Effective Date, there is no pending or, to Cytokinetics' Knowledge, threatened (in writing), adverse actions, investigations, suits or proceedings against Cytokinetics or any of its Affiliates involving the Cytokinetics IP, Compound or Product;

(k) neither Cytokinetics nor any of its Affiliates, nor any employee, agent or supplier thereof that have been or will be involved in any Clinical Trial in connection to the Product, is, or has been, debarred or disqualified by any Regulatory Authority nor will any of them be debarred or disqualified by any Regulatory Authority at any time throughout the Term;

(l) as of the Effective Date, (i) the [*] constitute all of the material Upstream Licenses, and (ii) neither Cytokinetics nor any of its Affiliates are in breach of any material Upstream License in a manner that could result in the termination of any rights that are sublicensed to Ji Xing hereunder; and

(m) Cytokinetics and its Affiliates: (i) will not breach the terms or conditions of any Upstream License in a manner that could result in the termination of any rights that are sublicensed to Ji Xing hereunder; (ii) shall ensure that the Upstream Licenses are in full force and effect for so long as any Cytokinetics IP licensed to Cytokinetics under such Upstream Licenses are necessary or reasonably useful for the Development or Commercialization of Products in the Field and in the Territory; and (iii) shall provide prompt notice to Ji Xing of its receipt of any written notice that alleges breach or default by Cytokinetics of, or requests a material amendment of, or termination of any Upstream License.

12.3. Representations and Warranties of Ji Xing. Ji Xing represents, warrants, and covenants (as applicable) to Cytokinetics that:

(a) it has not granted, and will not grant during the Term, any license or other right under the Ji Xing IP that is inconsistent with the license granted to Cytokinetics under Section 2.4;

(b) there is no pending or, to Ji Xing's Knowledge, threatened (in writing), adverse actions, claims, suits or proceedings against Ji Xing or any of its Affiliate that involve any antitrust, anti-competition, anti-bribery or corruption violations or that may reasonably be expected to adversely affect Ji Xing's ability to perform its obligations under this Agreement;

(c) neither Ji Xing nor any of its Affiliates, nor any employee, agent or supplier thereof that will be involved in any Clinical Trial in connection to the Product, is, or has been, debarred or disqualified by any Regulatory Authority nor will any of them be debarred or disqualified by any Regulatory Authority at any time throughout the Term;

(d) it has or will have sufficient financial wherewithal to (i) perform all of its obligations pursuant to this Agreement, and (ii) meet all of its obligations that come due in the ordinary course of business; and

(e) none of its outstanding capital stock or shares, or rights to acquire the same, is owned (whether of record or beneficially) by (i) any government or government controlled entity; or (ii) any person or entity sanctioned by any Governmental Authority, including the U.S. Office of Foreign Assets Control; and

(f) it will have expertise, resources, experience and skill reasonably required to perform its obligations under this Agreement; and

(g) Ji Xing and its Affiliates and its sublicensees will not cause Cytokinetics to breach the terms or conditions of any of the [*] or any other Upstream License that Cytokinetics has notified Ji Xing of the existence of, and provided a copy to Ji Xing of, in a manner that could result in the termination of any rights that are sublicensed to Ji Xing hereunder.

12.4. NO OTHER WARRANTIES. EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT, NO REPRESENTATIONS OR WARRANTIES WHATSOEVER, WHETHER EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OR NON-MISAPPROPRIATION OF THIRD PARTY INTELLECTUAL PROPERTY RIGHTS, ARE MADE OR GIVEN BY OR ON BEHALF OF A PARTY. ALL REPRESENTATIONS AND WARRANTIES, WHETHER ARISING BY OPERATION OF LAW OR OTHERWISE, ARE HEREBY EXPRESSLY EXCLUDED. JI XING ACKNOWLEDGES AND AGREES THAT THE PRODUCT IS THE SUBJECT OF ONGOING CLINICAL RESEARCH AND DEVELOPMENT AND THAT CYTOKINETICS CANNOT ASSURE THE SAFETY, USEFULNESS OR SUCCESSFUL DEVELOPMENT OR COMMERCIALIZATION OF THE PRODUCT.

ARTICLE 13
INDEMNIFICATION

13.1. Indemnification by Ji Xing. Ji Xing shall indemnify, defend and hold harmless Cytokinetics, its Affiliates, and their directors, officers, employees and agents (individually and collectively, the "**Cytokinetics Indemnitee(s)**") from and against all losses, liabilities, damages and expenses (including reasonable attorneys' fees and costs) incurred in connection with any claims, demands, actions or other proceedings by any Third Party (individually and collectively, "**Losses**") to the extent arising from:

(a) the Development and Commercialization of the Product in the Territory by Ji Xing or any of its Affiliates or sublicensee, including [*]; or

(b) the [*] misconduct or breach of this Agreement (including any representations, warranty or covenant of Ji Xing) by any Ji Xing Indemnitee.

except in each case to the extent such Losses arise out of the [*] misconduct or breach of this Agreement by any Cytokinetics Indemnitee.

13.2. Indemnification by Cytokinetics. Cytokinetics shall indemnify, defend and hold harmless Ji Xing, its Affiliates, and their directors, officers, employees and agents (individually and collectively, the "**Ji Xing Indemnitee(s)**") from and against all Losses to the extent arising from:

(a) the Development and Commercialization of the Product outside the Territory by Cytokinetics or any of its Affiliates, licensees or sublicensee, including product liability claims relating to the Product outside the Territory; or

(b) the [*] misconduct or breach of this Agreement (including any representations, warranty or covenant of Cytokinetics) by any Cytokinetics Indemnitee; except in each case to the extent such Losses arise out of the [*] misconduct or breach of this Agreement by any Ji Xing Indemnitee.

13.3. Indemnification Procedure. If either Party is seeking indemnification under Sections 13.1 or 13.2 (the "**Indemnified Party**"), it shall inform the other Party (the "**Indemnifying Party**") of the claim giving rise to the obligation to indemnify pursuant to such Section within [*] after receiving notice of the claim (it being understood and agreed, however, that the failure or delay by an Indemnified Party to give such notice of a claim shall not affect the indemnification provided hereunder except to the extent the Indemnifying Party shall have been prejudiced as a result of such failure or delay to give notice). The Indemnifying Party shall have the right to assume the defense of any such claim for which it is obligated to indemnify the Indemnified Party. The Indemnified Party shall cooperate with the Indemnifying Party and the Indemnifying Party's insurer as the Indemnifying Party may reasonably request, and at the Indemnifying Party's cost and expense. The Indemnified Party shall have the right to participate, at its own expense and with counsel of its choice, in the defense of any claim that has been assumed by the Indemnifying Party. Neither Party shall have the obligation to indemnify the other Party in connection with any settlement made without the Indemnifying Party's written consent, which consent shall not be unreasonably withheld or delayed. If the Parties cannot agree as to the application of Section 13.1 or 13.2 as to any claim, pending resolution of the dispute pursuant to Article 15, the Parties may conduct separate defenses of such claims, with each Party retaining the right to claim indemnification from the other Party in accordance with Section 13.1 or 13.2 upon resolution of the underlying claim.

13.4. Limitation of Liability. NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY SPECIAL, CONSEQUENTIAL (WHICH SHALL BE DEEMED TO INCLUDE, WITHOUT LIMITATION, ALL DAMAGES CONSTITUTING LOSS OF PROFIT, LOSS OF REVENUE AND LOSS OF GOODWILL), INCIDENTAL, PUNITIVE, OR INDIRECT DAMAGES ARISING FROM OR RELATING TO ANY BREACH OF THIS AGREEMENT, REGARDLESS OF ANY NOTICE OF THE POSSIBILITY OF SUCH DAMAGES. NOTWITHSTANDING THE FOREGOING, NOTHING IN THIS SECTION 13.5 IS INTENDED TO OR SHALL LIMIT OR RESTRICT THE INDEMNIFICATION RIGHTS OR OBLIGATIONS OF ANY PARTY UNDER SECTION 13.1 OR 13.2, OR DAMAGES AVAILABLE FOR A PARTY'S BREACH OF SECTION 2.9 OR ARTICLE 11.

13.5. Insurance. Each Party shall procure and maintain insurance, including product liability insurance, with respect to its activities hereunder and which is consistent with normal business practices of prudent companies similarly situated in the applicable territory at all times during which any Product is being clinically tested in human subjects or commercially distributed or sold. Each Party shall provide the other Party with evidence of such insurance upon request and shall provide the other Party with written notice at least [*] prior to the cancellation, non-renewal or material changes in such insurance. Such insurance shall not be construed to create a limit of either Party's liability under this Agreement.

ARTICLE 14
TERM AND TERMINATION

14.1. Term. The term of this Agreement shall commence upon the Effective Date and continue in full force and effect, on a Market-by-Market basis, until the expiration of the Royalty Term for the Product in such Market, unless earlier terminated as set forth in Section 14.2 below (the "**Term**"). Upon expiration of the Royalty Term with respect to the Product in a particular Market, the license granted by Cytokinetics to Ji Xing under Section 2.1 with respect to the Product in such Market shall continue and shall become non-exclusive, fully paid-up, royalty-free, perpetual and irrevocable.

14.2. Termination.

(a) **Termination by Ji Xing for Convenience**. At any time, Ji Xing may terminate this Agreement in its entirety by providing written notice of termination to Cytokinetics, which notice includes an effective date of termination at least [*] after the date of the notice.

(b) **Termination for Uncured Material Breach**. If either Party believes that the other is in material breach of its obligations hereunder, and the allegedly breaching Party has failed to timely cure such material breach in accordance with the requirements set forth below, then the non-breaching Party may deliver notice of such breach to the other Party. Except as provided in Section 16.6(h), for all material breaches other than a failure to make a payment as set forth in this Agreement, the allegedly breaching Party shall have [*] from such notice to cure such breach. For any material breach arising from a failure to make a payment set forth in this Agreement, the allegedly breaching Party shall have [*] from the receipt of the notice to cure such breach. If the Party receiving notice of breach fails to cure that breach within the applicable period set forth above, then the Party originally delivering the notice of breach may terminate this Agreement in its entirety immediately upon written notice to the other Party. Notwithstanding the foregoing, if the breaching Party disputes the existence of material breach or the failure to cure such material breach, the Party shall not have the right to terminate this Agreement in accordance with this Section 14.2(b) unless and until the relevant dispute has been resolved pursuant to Article 15. During the pendency of such dispute, the applicable cure period shall be tolled, all the terms of this Agreement shall remain in effect, and the Parties shall continue to perform all of their respective obligations hereunder. For clarity, in the event of material breach by Cytokinetics, Ji Xing may exercise the alternative remedy provided for in Section 14.3(l)(ii) in lieu of its right of termination.

(c) **Termination for Insolvency**. Each Party shall have the right to terminate this Agreement in its entirety immediately upon written notice to the other Party in the event that (i) such other Party files in any court or agency pursuant to any statute or regulation of any jurisdiction a petition in bankruptcy or insolvency or for reorganization or similar arrangement for the benefit of creditors or for the appointment of a receiver or trustee of such other Party or its assets, (ii) such other Party is served with an involuntary petition against it in any insolvency proceeding and such involuntary petition has not been stayed or dismissed within [*] of its filing, or (iii) such other Party makes an assignment of substantially all of its assets for the benefit of its creditors.

(d) **Termination for Certain Change of Control**. Ji Xing shall notify Cytokinetics immediately (and within [*] in any event) if Ji Xing enters into a binding agreement for a Change of Control, with a further notice upon the closing of the Change of Control. Cytokinetics shall have the right to terminate this Agreement in its entirety upon [*] advanced written notice to Ji Xing if Ji Xing undergoes a Change of Control such that: if

(i) its Acquiror or an Affiliate of the Acquiror is engaged in the clinical development or commercialization of a pharmaceutical product containing a cardiac sarcomere activator for any use;

(ii) its Acquiror or an Affiliate of the Acquiror [*] and the average sales per month of the Product in the Territory [*] immediately follow such Change of Control is more than [*], then Cytokinetics may deliver notice of such [*] to Ji Xing. For any such [*], Ji Xing's Acquiror or an Affiliate of such Acquiror shall have [*] to propose [*] to Cytokinetics that demonstrates how [*]. If Ji Xing or its Acquiror fails to propose to Cytokinetics an [*] of Ji Xing's receipt of Cytokinetics' notice or the [*] is not satisfactory to Cytokinetics upon its good faith determination and Cytokinetics provides Ji Xing with notice of such determination (such date, the "**Failure Date**"), then Ji Xing's Acquiror or an Affiliate of such Acquiror shall within [*] of the Failure Date [*]. If Ji Xing's Acquiror or an Affiliate of such Acquiror fails to complete such [*], then Cytokinetics shall have the right to terminate this Agreement in its entirety upon [*] advanced written notice to Ji Xing. In lieu of terminating this Agreement in its entirety, at Cytokinetics' sole discretion, the Parties may negotiate in good faith a payment acceptable to Cytokinetics for breach of this Section 14.2(d)(ii). Notwithstanding the foregoing, if Ji Xing disputes Cytokinetics' good faith determination that the [*] is not satisfactory, Cytokinetics shall not have the right to terminate this Agreement in accordance with this Section 14.2(d)(ii) unless and until the relevant dispute has been resolved pursuant to Article 15. During the pendency of such dispute, any applicable [*] shall be tolled, all the terms of this Agreement shall remain in effect, and the Parties shall continue to perform all of their respective obligations hereunder;

(iii) its Acquiror generates less than $ [*] in annual revenue from the sale of pharmaceutical products in the Territory;

(iv) its Acquiror would not be able to make the representations set forth in Article 12 that are applicable to Ji Xing as if such representations were being made by its Acquiror in the name, place and stead of Ji Xing, as if applied to the Acquiror both immediately prior to and following the closing of the Change of Control without breach thereof; or

(v) its Acquiror fails to provide a written certification that it will comply (or it will cause Ji Xing to continue to comply) with the terms and conditions of this Agreement, including its diligence obligations.

(e) **Termination for Patent Challenge**. Except to the extent the following is unenforceable under the laws of a particular jurisdiction, Cytokinetics may terminate this Agreement in its entirety immediately upon written notice to Ji Xing if Ji Xing or its Affiliates or sublicensees, individually or in association with any other person or entity, commences a legal action challenging the validity, enforceability or scope of any Patents owned or Controlled by Cytokinetics anywhere in the world; provided that the foregoing shall not apply in the event such action is brought by a sublicensee of Ji Xing and Ji Xing has terminated the applicable sublicense within [*] after it becomes aware of such action and has no further business relationship with such former sublicensee.

(f) **Termination due to Force Majeure.** If a Party's failure or delay in performing its obligations (other than payment obligation) under this Agreement is due to a force majeure event (as set forth in **Section 16.1**) and such event continues for a period exceeding [*], then the other Party shall have the right to terminate this Agreement in its entirety immediately upon written notice to the Party affected by the force majeure event. For clarity, Section 14.2(b) (and not this Section 14.2(f)) shall apply to termination for failure to make payment when due.

14.3. Effect of Termination. Upon any termination of this Agreement under Section 14.2 (but not by reason of the expiration of the Royalty Term pursuant to Section 14.1):

(a) **License to Ji Xing**. All licenses and other rights granted by Cytokinetics to Ji Xing under the Cytokinetics IP shall terminate and all sublicenses granted by Ji Xing shall also terminate.

(b) **License to Cytokinetics**. The license granted by Ji Xing to Cytokinetics under Section 2.4 shall continue. In addition, effective on such termination, Ji Xing hereby grants to Cytokinetics an exclusive, perpetual, irrevocable, transferable and sublicenseable (through multiple tiers) fully paid and royalty-free license under the Ji Xing IP to Develop, use, promote, sell, offer for sale, import and otherwise Commercialize the Product in the Territory.

(c) **Regulatory Materials**. For any Regulatory Materials and Regulatory Approvals for the Product that are held by Ji Xing or its Affiliate or sublicensees, Ji Xing shall (and shall cause its Affiliates and sublicensees to), as instructed by Cytokinetics, either (i) if permitted by Applicable Laws, promptly transfer and assign all such Regulatory Materials and Regulatory Approvals to Cytokinetics, (ii) continue to hold any such Regulatory Materials and Regulatory Approvals for the sole benefit of Cytokinetics or its designee (in which case, Ji Xing shall appoint Cytokinetics or its designee as the exclusive distributor (with the right to subcontract and appoint subdistributors) under such Regulatory Materials and Regulatory Approvals for the Product in the Territory, and also as its agent to interact with the applicable Regulatory Authority in the Territory with respect to such Regulatory Materials and Regulatory Approvals), until such time Cytokinetics or its designee files its own Regulatory Materials and obtain its own Regulatory Approvals for the Product in the Territory; and/or (iii) terminate or withdraw any such Regulatory Materials and Regulatory Approvals.

(d) **Regulatory Assistance**. Upon Cytokinetics' request, Ji Xing shall provide Cytokinetics with reasonable assistance and cooperation regarding any inquiries and correspondence with Regulatory Authorities relating to the Product.

(e) **Data**. Ji Xing shall (and shall cause its Affiliates and sublicensees to) promptly transfer and assign to Cytokinetics, at no cost to Cytokinetics, all data generated from the Development of the Product, including all Clinical Trials conducted by or on behalf of Ji Xing, its Affiliates and sublicensees, and all pharmacovigilance data (including all adverse event databases) relating to the Product in the Territory.

(f) **Trademarks**. Ji Xing shall (and shall cause its Affiliates and sublicensees to) promptly transfer and assign to Cytokinetics, at no cost to Cytokinetics, all Product Marks (excluding any such mark that includes, in whole or in part, any corporate name or logos of Ji Xing or its Affiliates or sublicensees).

(g) **Inventory**. Cytokinetics shall have the right (but not the obligation) to purchase from Ji Xing any or all of the inventory of the Product held by Ji Xing or its Affiliates or sublicensees as of the date of termination at a price equal to the price paid by Ji Xing for such inventory, provided that such inventory complies with applicable specifications, has been handled and stored in compliance with Applicable Laws (including cGMP), and has greater than twelve (12) months of remaining shelf life at the time of delivery to Cytokinetics.

(h) **Transition Assistance**. Ji Xing shall (and shall cause its Affiliates and sublicensees to) reasonably cooperate with Cytokinetics to facilitate orderly transition of the Development, Manufacture and Commercialization of and Medical Affairs Activities for the Product to Cytokinetics, including (i) assigning or amending as appropriate, upon request of Cytokinetics, any agreements or arrangements with Third Party vendors (including distributors) to Develop, promote, distribute, sell or otherwise Commercialize the Product or, to the extent any such Third Party agreement or arrangement is not assignable to Cytokinetics, reasonably cooperating with Cytokinetics to arrange to continue to provide such services for a reasonable time after termination; (ii) to the extent that Ji Xing or its Affiliate or sublicensee is performing any activities described above in (i), reasonably cooperating with Cytokinetics to transfer such activities to Cytokinetics or its designee, and continuing to perform such activities on Cytokinetics' behalf for a reasonable time after termination until such transfer is completed; and (iii) providing Cytokinetics with reasonable quantities of materials used or generated by Ji Xing, its Affiliates and sublicensees in the Development, Manufacture and Commercialization of and Medical Affairs Activities for the Product in the Territory, such as clinical brochures and promotional materials, or any chemical or biological materials, that were not received from Cytokinetics.

(i) **Ongoing Clinical Trials**. If at the time of such termination, any Clinical Trials for the Product are being conducted by or on behalf of Ji Xing, its Affiliates or sublicensees, then, at Cytokinetics' election on a trial-by-trial basis: (i) Ji Xing shall (and shall cause its Affiliates and sublicensees to) fully cooperate with Cytokinetics to transfer the conduct of all such Clinical Trials to Cytokinetics, and Cytokinetics shall assume any and all liability and costs for such Clinical Trials after the effective date of such termination, provided that Ji Xing shall continue to bear all costs and expenses incurred in connection with the conduct of such Clinical Trials until the earlier of the completion of such Clinical Trial or [*] after the effective date of such termination; or (ii) Ji Xing shall (and shall cause its Affiliates and sublicensees to) at its own cost and expense, orderly wind down in compliance with Applicable Laws the conduct of any such Clinical Trial which is not assumed by Cytokinetics under clause (i).

(j) **Return of Confidential Information**. Ji Xing shall (and shall cause its Affiliates and sublicensees to) promptly return or destroy (at Cytokinetics' election) all tangible materials comprising, bearing or containing any Confidential Information of Cytokinetics that are in Ji Xing's or its Affiliates' or sublicensees' possession or control.

(k) **Termination Press Releases**. Subject to the provisions of Section 11.5, the Parties shall cooperate in good faith to coordinate public disclosure of the termination of this Agreement and the reasons therefor, and neither Party shall, except to the extent required by Applicable Laws, disclose any such information without the prior approval of the other Party. The principles to be observed in such disclosures shall be accuracy, compliance with Applicable Laws and regulatory guidance documents, and reasonable sensitivity to potential negative investor reaction to such news.

(l) **Termination by Ji Xing for Cytokinetics' Uncured Breach or Failure to Perform**.

(i) Notwithstanding the foregoing in this Section 14.3, if this Agreement is terminated by Ji Xing (x) for Cytokinetics' uncured material breach pursuant to Section 14.2(b) or (y) for Cytokinetics' failure or delay in performing its obligations due to a force majeure event pursuant to Section 14.2(f), then Ji Xing's transfer of Regulatory Materials, data or provision of transition services in accordance with Sections 14.3(c), (d), and (h) above shall be compensated based on reimbursement of actual internal and external cost reasonably incurred in performing such transfers and transition services. The license granted by Ji Xing to Cytokinetics under Section 2.4 shall continue. In addition, effective on such termination, Ji Xing hereby grants to Cytokinetics an exclusive, perpetual, irrevocable, transferable and sublicenseable (through multiple tiers) fully paid and royalty free license under the Ji Xing IP to Develop, use, promote, sell, offer for sale, import and otherwise Commercialize the Product in the Territory, which license shall be royalty bearing at the applicable royalty rate set forth below:

(1) [*] in a Market in the Territory, if [*];

(2) [*] in a Market in the Territory, if [*]; and

(3) [*] in a Market in the Territory, if [*].

The definition of Net Sales and Sections 9.4 through 9.7 shall apply *mutatis mutandis* with respect to the sale of the Product by Cytokinetics in the Territory.

(ii) If Ji Xing is entitled to terminate this Agreement for Cytokinetics' uncured material breach pursuant to Section 14.2(b), Ji Xing may, in lieu of terminating this Agreement, elect to continue this Agreement but [*]. If Ji Xing elects to continue this Agreement as provided in this Section 14.3(l)(ii), none of Section 14.3 other than this Section 14.3(l)(ii) shall apply.

14.4. Survival. Expiration or termination of this Agreement shall not relieve the Parties of any obligation accruing prior to such expiration or termination. Without limiting the foregoing, the following provisions shall survive the termination or expiration of this Agreement for any reason: Article 1 (Definitions), Section 2.4 (License Grant to Cytokinetics), Section 2.6 (Exclusion of Acquiror's IP), [*], Section 4.9 (Development Records), Section 5.5, Sections 9.4 through 9.9 (solely to the extent applicable with respect to a payment obligation that accrued prior to expiration or termination), Section 10.2 (Arising Product IP), Article 11 (Confidentiality), Section 12.4 (No Other Warranties), Article 13 (Indemnification), the last sentence of Section 14.1 (solely in the event of expiration as set forth in that sentence and not in the event of earlier termination), Section

14.3 (Effect of Termination), Section 14.4 (Survival), Section 14.5 (Termination Not Sole Remedy), Article 15 (Dispute Resolution) and Article 16 (Miscellaneous).

14.5. Termination Not Sole Remedy. Termination is not the sole remedy under this Agreement and, whether or not termination is effected and notwithstanding anything contained in this Agreement to the contrary, all other remedies shall remain available except as agreed to otherwise herein.

ARTICLE 15
DISPUTE RESOLUTION

15.1. Disputes. The Parties recognize that disputes as to certain matters may from time to time arise during the Term which relate to either Party's rights and/or obligations hereunder. It is the objective of the Parties to establish procedures to facilitate the resolution of disputes arising under this Agreement in an expedient manner. To accomplish this objective, the Parties agree to follow the procedures set forth in this Article 15 to resolve any controversy or claim arising out of, relating to or in connection with any provision of this Agreement, if and when a dispute arises under this Agreement.

15.2. Internal Resolution. With respect to all disputes arising between the Parties under this Agreement, including, without limitation, any alleged breach under this Agreement or any issue relating to the interpretation or application of this Agreement, if the Parties are unable to resolve such dispute within [*] after such dispute is first identified by either Party in writing to the other, the Parties shall refer such dispute to the JSC for attempted resolution by good faith negotiations within [*] after such notice is received. If the Parties fail to resolve the dispute through escalation to the JSC under this Section 15.2, then such dispute shall be resolved in accordance with Section 15.3 or 15.4 as applicable. Until such dispute is resolved as set forth below, the Parties shall continue to perform their obligations under this Agreement in good faith, including making all applicable undisputed payments accordingly.

15.3. Dispute Resolution by [*] **for Certain Disputes.**

(a) The dispute resolution mechanism set forth below in this Section 15.3 shall apply only to unresolved disputes regarding [*].

(b) Within [*] after the end of the [*] period set forth in Section 15.2 above, each Party shall propose a list of [*] individuals, each of whom has at least [*] of significant relevant experience in the pharmaceutical industry, and none of whom is or has been affiliated with either Party or with either Party's Affiliates, licensees, sublicensees or business partners, or otherwise has any interest in the resolution of the issue to be submitted by the Parties for resolution (the foregoing requirements, the "**Requirements**"). Within [*] after the Parties exchange such lists, the Parties shall either agree upon one of such proposed individuals to resolve the disputed matter, or if the Parties fails to agree on the selection of such individual within such period of time, each Party shall select [*].

(c) Within [*] after selection of the [*], each Party shall submit to the other Party and to the [*] a detailed written proposal setting forth its proposed terms for the resolution of such dispute (the "**Proposed Terms**" of such Party) and a memorandum in support thereof. Each Party shall then have [*] to submit a written rebuttal to the other Party's submission (and any amendment to its own Proposed Terms) to the other Party and to the [*]. The [*] shall have the discretion to interview the Parties' officers and employees to obtain further information relating to the matters in issue and to hear oral argument, on such schedule and following such procedure as the [*] may determine, provided, however, that following the engagement of the [*] neither Party shall have *ex parte* communication with the [*] except with the prior written consent of the other Party (and if there is any such consented communication, in accordance with any conditions specified). Each Party shall reasonably cooperate with the [*].

(d) Within [*] after the selection of the [*], the [*] shall select [*] as the resolution of such dispute. The [*]'s determination shall be final, binding and unappealable, and shall be given retroactive effect. For clarity, the [*] must select, as the only method to resolve such dispute, [*] or award any other relief or take any other action to resolve the dispute.

(e) The Parties shall share all fees and expenses of the [*] incurred pursuant to this Section 15.3 equally regardless of which Party's Proposed Terms were selected.

15.4. Dispute Forum.

(a) Except as provided in Section 15.3 above and subject to the remainder of this Section 15.4, all disputes in connection with this Agreement that are not resolved in accordance with Section 15.2 shall be resolved in the courts of the State of New York and the courts of the United States of America located in the Borough of Manhattan of New York City, which shall have exclusive jurisdiction for the resolution of any such disputes. Each Party irrevocably consents to the personal jurisdiction of said courts in connection to any disputes in connection to this agreement and agrees not to challenge said jurisdiction on the grounds of inconvenient forum or lack of personal or subject matter jurisdiction. Each Party agrees to receipt of service of process by delivery or process in accordance with Section 16.4 below.

(b) Notwithstanding Section 15.4(a) above, each Party shall be permitted to seek and obtain interlocutory relief against the other Party or any Affiliate or licensee thereof and to enforce any judgment obtained in any of the courts contemplated in Section 15.4(a) above in any forum located in any jurisdiction.

(c) EACH PARTY HERETO WAIVES ITS RIGHT TO TRIAL BY JURY OF ANY ISSUE RELATING TO ANY DISPUTE ARISING HEREUNDER.

(d) Notwithstanding Section 15.4(a) above, in the event of a dispute with respect to the validity, scope, enforceability or ownership of any Patent or other intellectual property rights, and such dispute is not resolved in accordance with Section 15.2, then such dispute shall be resolved in a court of competent jurisdiction in any country in which such rights apply.

ARTICLE 16
MISCELLANEOUS

16.1. Force Majeure. Neither Party shall be held liable to the other Party nor be deemed to have defaulted under or breached this Agreement for failure or delay in performing any obligation under this Agreement other than a payment obligation to the extent such failure or delay is caused by or results from causes beyond the reasonable control of the affected Party, including embargoes, war, acts of war (whether war be declared or not), insurrections, riots, civil commotions, strikes, lockouts or other labor disturbances, epidemic or pandemic, fire, floods, or other acts of God or any other deity, or acts, omissions or delays in acting by any Governmental Authority. Such excuse from liability shall be effective only to the extent and duration of the event(s) causing the failure or delay in performance and provided that the Party has not caused such event(s) to occur. The affected Party shall notify the other Party of such force majeure circumstances as soon as reasonably practical, and shall promptly undertake all reasonable efforts necessary to cure such force majeure circumstances.

16.2. Assignment.

(a) Except as provided in Section 16.2(b) below, this Agreement may not be assigned or otherwise transferred, nor may any right or obligation hereunder be assigned or transferred, by either Party without the prior written consent of the other Party. Any attempted assignment not in accordance with the foregoing shall be null and void and of no legal effect. Any permitted assignee shall assume all assigned obligations of its assignor under this Agreement. The terms and conditions of this Agreement shall be binding upon, and shall inure to the benefit of, the Parties and their respected successors and permitted assigns.

(b) [*].

(c) [*].

16.3. Severability. If any one or more of the provisions contained in this Agreement is held invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby, unless the absence of the invalidated provision(s) adversely affects the substantive rights of the Parties. The Parties shall in such an instance use their best efforts to remove or replace the invalid, illegal or unenforceable provision(s) with valid, legal and enforceable provision(s) which, insofar as practical, implement the purposes of this Agreement.

16.4. Notices. All notices which are required or permitted hereunder shall be in writing and sufficient if delivered personally, sent by facsimile (and promptly confirmed by personal delivery, registered or certified mail or overnight courier), sent by nationally-recognized overnight courier or sent by registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

If to Cytokinetics:

Cytokinetics, Incorporated
350 Oyster Point Boulevard
South San Francisco, CA 94080
USA
Attn: President
Fax: [*]
Copy to: General Counsel

with a copy to:

Cooley LLP
3175 Hanover Street
Palo Alto, CA 94304, USA
Attn: Robert L. Jones, Esq.
Fax: [*]

If to Ji Xing:

Ji Xing Pharmaceuticals Limited
c/o Ji Xing Pharmaceuticals (Shanghai) Co., Ltd
Suite 2801, Level 28, Plaza 66 Tower 2
1266 W. Nanjing Road, Jing’an District
Shanghai, China 200040
Attn: [*]
Fax: [*]

with a copy to:

Ji Xing Pharmaceuticals Limited
c/o RTW Investments, LP
40 10th Avenue, Floor 7
New York, NY 10014
Attn: [*]
Fax: [*]

or to such other address as the Party to whom notice is to be given may have furnished to the other Party in writing in accordance herewith. Any such notice shall be deemed to have been given: (a) when delivered if personally delivered or sent by facsimile on a Business Day; (b) on the Business Day after dispatch if sent by nationally-recognized overnight courier; or (c) on the fifth Business Day following the date of mailing if sent by mail.

16.5. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York, U.S., without giving effect to any choice of law principles that would require the application of the laws of a different jurisdiction. The application of the U.N. Convention on Contracts for the International Sale of Goods is excluded.

16.6. Foreign Corrupt Practices Act Compliance.

(a) **Compliance with FCPA**. The U.S. government imposes and enforces prohibitions on the payment or transfer of anything of value to governments, employees, officers, and directors of a government entity, public international organization, or state-owned or controlled entity, and political parties or political party officials (or relatives or associates of such officials) ("**FCPA Covered Person**") for the purpose of improperly influencing them, whether directly or indirectly through third parties, to obtain or retain business. This U.S. law is referred to as the Foreign Corrupt Practices Act of 1977, as amended ("**FCPA**"), and it can have application to conduct of a U.S. corporation's foreign subsidiaries, employees, agents and distributors. A summary of the law and related information can be found at http://www.justice.gov/criminal/fraud/fcpa. By signing this Agreement, Ji Xing represents, warrants and covenants (as applicable) to Cytokinetics that:

(i) it is familiar with the provisions and restrictions contained in the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and FCPA;

(ii) it shall comply with the FCPA and Chinese and other applicable anti-corruption laws and regulations, in the Development and Commercialization of the Product under this Agreement;

(iii) it shall not, in the course of its duties under the Agreement, offer, promise, give, provide, authorize the provision of, demand, seek or accept, directly or indirectly through a third party, any gift or payment, consideration or benefit in kind to any FCPA Covered Person that would or could be construed as an illegal or corrupt practice, or otherwise violate the FCPA or Chinese or other applicable anti-corruption laws and regulations;

(iv) it is not an FCPA Covered Person or affiliated with any FCPA Covered Person;

(v) it shall immediately notify Cytokinetics of any attempt by any FCPA Covered Person to directly or indirectly solicit, ask for, or attempt to extort anything of value from Ji Xing, its Affiliates or sublicensees, and shall refuse any such solicitation, request or extortionate demand;

(vi) none of it or its employees, officers, directors, or representatives are or have been accused of, or investigated or prosecuted for, violating any applicable anti-corruption laws and regulations; and

(vii) it shall immediately notify Cytokinetics if it suspects or believes that it or any of its employees, officers, directors, or representatives has violated the FCPA or Chinese or other applicable anti-corruption laws and regulations.

(d) **Compliance Certificate**. From time to time upon request from Cytokinetics, Ji Xing shall submit a compliance certificate in the form reasonably requested by Cytokinetics that (i) it fully understands its obligations under this Section 16.6 and any other Applicable Laws mentioned herein or as may come into existence from time to time after the Effective Date; (ii) it has been complying with this Section 16.6 and any other Applicable Laws mentioned herein or as may come into existence from time to time after the Effective Date; and (iii) it shall continue to comply with this Section 16.6 and any other Applicable Laws mentioned herein or as may come into existence from time to time after the Effective Date.

(e) **No Action**. In no event shall any Party be obligated under the Agreement to take any action or omit to take any action that such Party believes, in good faith, would cause it to be in violation of any Applicable Laws, including the anti-bribery laws referenced in this Section 16.6.

(f) **Due Diligence**. Cytokinetics shall have the right to visit the offices of Ji Xing from time to time during the term of the Agreement on an "as needed" basis and conduct due diligence in relation to Ji Xing's business related to performance of its obligations under this Section 16.6 and may do so in the way it deems necessary, appropriate or desirable so as to ensure that Ji Xing complies with this Section 16.6 and any other Applicable Laws in its business operations. Ji Xing shall make every effort to cooperate fully with Cytokinetics in any such due diligence and shall provide Cytokinetics or its representatives with access to Ji Xing's officers and employees, and such other information as Cytokinetics may reasonably request, in order to enable Cytokinetics to determine Ji Xing's compliance with this Section 16.6.

(g) **Audit**. In the event that Cytokinetics has reason to believe that a breach of any obligation of Ji Xing under this Section 16.6 has occurred or may occur, Cytokinetics shall have the right to select an independent third party to conduct an audit of Ji Xing and review relevant books and records of Ji Xing, to satisfy itself that no breach has occurred. Unless otherwise required under Applicable Laws or by order of a competent court or regulatory authority, Cytokinetics shall ensure that the selected independent third party shall keep confidential all audited matters and the results of the audit. Cytokinetics does reserve the right to disclose to the U.S. or foreign government, its agencies and/or any other government or non-government party, information relating to a possible violation by Ji Xing of any Applicable Law, including a violation of the FCPA or any other applicable anti-bribery law.

(h) [*].

16.7. Entire Agreement; Amendments. The Agreement, together with the Exhibits attached hereto, contains the entire understanding of the Parties with respect to the subject matter hereof. All express or implied agreements and understandings, either oral or written, with regard to the subject matter hereof (including the licenses granted hereunder) are superseded by the terms of this Agreement. Neither Party is relying on any representation, promise, nor warranty not expressly set forth in this Agreement. This Agreement may be amended, or any term hereof modified, only by a written instrument duly executed by authorized representatives of both Parties hereto.

16.8. Headings. The captions to the several Sections hereof are not a part of this Agreement, but are merely for convenience to assist in locating and reading the Sections of this Agreement.

16.9. Independent Contractors. It is expressly agreed that Cytokinetics and Ji Xing shall be independent contractors and that the relationship between the two Parties shall not constitute a partnership, joint venture or agency. Neither Cytokinetics nor Ji Xing shall have the authority to make any statements, representations or commitments of any kind, or to take any action, which shall be binding on the other Party, without the prior written consent of the other Party.

16.10. Waiver. The waiver by either Party of any right hereunder, or the failure of the other Party to perform, or a breach by the other Party, shall not be deemed a waiver of any other right hereunder or of any other breach or failure by such other Party whether of a similar nature or otherwise.

16.11. Cumulative Remedies. No remedy referred to in this Agreement is intended to be exclusive, but each shall be cumulative and in addition to any other remedy referred to in this Agreement or otherwise available under law.

16.12. Waiver of Rule of Construction. Each Party has had the opportunity to consult with counsel in connection with the review, drafting and negotiation of this Agreement. Accordingly, the rule of construction that any ambiguity in this Agreement shall be construed against the drafting Party shall not apply.

16.13. Business Day Requirements. In the event that any notice or other action or omission is required to be taken by a Party under this Agreement on a day that is not a Business Day then such notice or other action or omission shall be deemed to be required to be taken on the next occurring Business Day.

16.14. Translations. This Agreement is in the English language only, which language shall be controlling in all respects, and all versions hereof in any other language shall be for accommodation only and shall not be binding upon the Parties. All communications and notices to be made or given pursuant to this Agreement, and any dispute proceeding related to or arising hereunder, shall be in the English language. If there is a discrepancy between any translation of this Agreement and this Agreement, this Agreement shall prevail.

16.15. Further Actions. Each Party agrees to execute, acknowledge and deliver such further instruments, and to do all such other acts, as necessary or appropriate in order to carry out the purposes and intent of this Agreement.

16.16. Construction. Except where the context expressly requires otherwise, (a) the use of any gender herein shall be deemed to encompass references to either or both genders, and the use of the singular shall be deemed to include the plural (and vice versa), (b) the words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation", (c) the word "shall" shall be construed to have the same meaning and effect as the word "will", (d) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein), (e) any reference herein to any person shall be construed to include the person's successors and assigns, (f) the words "herein", "hereof" and "hereunder", and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (g) all references herein to Sections, Schedules, or Exhibits shall be construed to refer to Sections, Schedules or Exhibits of this Agreement, and references to this Agreement include all Schedules and Exhibits hereto, (h) the word "notice" means notice in writing (whether or not specifically stated) and shall include notices, consents, approvals and other written communications contemplated under this Agreement, (i) provisions that require that a Party, the Parties or any committee hereunder "agree", "consent" or "approve" or the like shall require that such agreement, consent or approval be specific and in writing, whether by written agreement, letter, approved minutes, e-mail from an authorized representative or otherwise, (j) references to any specific law, rule or regulation, or Section, section or other division thereof, shall be deemed to include the then-current amendments thereto or any replacement or successor law, rule or regulation thereof, and (k) the term "or" shall be interpreted in the inclusive sense commonly associated with the term "and/or."

16.17. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Each Party shall be entitled to rely on the delivery of executed facsimile copies of counterpart execution pages of this Agreement and such facsimile copies shall be legally effective to create a valid and binding agreement among the Parties.

{Signature Page Follows}

In Witness Whereof, the Parties intending to be bound have caused this License and Collaboration Agreement to be executed by their duly authorized representatives as of the Effective Date.

Cytokinetics, Incorporated		**Ji Xing Pharmaceuticals Limited**	
By:	/s/ Robert Blum	By:	/s/ Joseph Romanelli
Name:	Robert I. Blum	Name:	Joseph Romanelli
Title:	President & CEO	Title:	Chief Executive Officer
Date:	December 20, 2021	Date:	December 20, 2021

List of Schedules and Exhibits

Schedule 2.2(b):	**Form of Direct Agreement with Sublicensee**
Schedule 8.2:	**Commercialization Requirements**
Schedule 8.3:	**Required Elements of the Commercialization Plan**
Exhibit A:	**Alliance Managers and Committee Representatives**
Exhibit B:	**Initial Development Plan**
Exhibit C:	**Initial Commercialization Plan**

[THE SCHEDULES TO THIS AGREEMENT HAVE BEEN OMITTED PURSUANT TO ITEM 601(A)(5) OF REGULATION S-K]

Exhibit 10.15

[*] – CERTAIN INFORMATION IN THIS DOCUMENT HAS BEEN EXCLUDED PURSUANT TO REGULATION S-K, ITEM 601(B)(10). SUCH EXCLUDED INFORMATION IS NOT MATERIAL AND WOULD LIKELY CAUSE COMPETITIVE HARM TO THE REGISTRANT IF PUBLICLY DISCLOSED.

CYTOKINETICS, INCORPORATED

COMMON STOCK PURCHASE AGREEMENT

THIS COMMON STOCK PURCHASE AGREEMENT (the "**Agreement**") is made as of December 20, 2021 (the "**Closing Date**") by and between Cytokinetics, Incorporated, a Delaware corporation (the "**Company**"), and RTW Master Fund, Ltd., with a business address located at [*] (the "**Investor**", and together with the Company, collectively, the "**Parties**" and individually, a "**Party**").

RECITALS

WHEREAS, the Company and Ji Xing Pharmaceuticals Limited ("**Ji Xing**"), an Affiliate (as defined below) of the Investor, have entered into that certain License and Collaboration Agreement (the "**License Agreement**"), and the Company and each of RTW Innovation Master Fund, Ltd. and RTW Venture Fund Limited have entered into common stock purchase agreements on substantially the same terms (other than price and share quantity) as this Agreement (each of the foregoing, together with the License Agreement, collectively, the "**Transaction Agreements**"), each of even date herewith;

WHEREAS, to induce the Company to grant certain rights under the License Agreement to Ji Xing, the Investor and its affiliates have collectively undertaken to purchase from the Company an aggregate of $20,000,000 of the Company's common stock, par value $0.001 per share (the "**Common Stock**") upon the terms and subject to the conditions set forth in this Agreement (and with respect to the Investor's affiliates purchasing the Common Stock concurrently with the Investor, separate common stock purchase agreements in the same form and substance as this Agreement);

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

SECTION 1

Purchase and Sale of Shares

1.1 ***Sale of Shares***. Subject to the terms and conditions hereof, the Company will issue and sell to the Investor, and the Investor will purchase from the Company, at the Closing, 217,024 shares of common stock of the Company (hereafter referred to as the "**Shares**"), free and clear of all liens or encumbrances, in consideration of a cash payment of eight million four hundred ninety-one thousand sixty-four dollars ($8,491,064) (the "**Aggregate Purchase Price**").

1.2 ***Closing***. The purchase and sale of the Shares shall take place at a closing (the "**Closing**") to be held at the offices of Cooley LLP, 3175 Hanover Street, Palo Alto, California 94304-1130, on the Closing Date. At the Closing, the Company will deliver or cause to be delivered to the Investor in book entry form a certificate or certificates representing the Shares that the Investor is purchasing and, concurrently, the Investor shall pay the Aggregate Purchase Price by (a) check payable to the Company, (b) wire transfer in accordance with the Company's instructions, or (c) any combination of the foregoing.

1.3 ***Tax Treatment***. For U.S. federal income and other applicable tax purposes, the Investor and the Company agree to treat the issuance and sale of the Shares by the Company, and the purchase of the Shares by the Investor, in accordance with the terms hereof as separate and independent from any transactions entered into by the Company and the Investor or its Affiliates, other than those contemplated by this Agreement, and to report the transactions contemplated by this Agreement on U.S. federal income tax and other applicable tax returns in accordance with this Section 1.3 unless otherwise required by applicable law.

SECTION 2

Representations and Warranties of the Company

Except as set forth on the Schedule of Exceptions attached hereto as Schedule B, the Company hereby represents and warrants the following as of the Closing Date:

2.1 ***Organization and Good Standing and Qualifications***. The Company is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and has all requisite power and authority to own, lease, operate and occupy its properties and to carry on its business as now being conducted. Except as set forth in the Commission Documents (as defined below), the Company does not own more than 50% of the outstanding capital stock of or control any other business entity. The Company is duly qualified as a foreign corporation to do business and is in good standing in every jurisdiction in which the nature of the business conducted or property owned or leased by it makes such qualification necessary, other than those in which the failure so to qualify or be in good standing would not have a Material Adverse Effect. For purposes of this Agreement, "**Material Adverse Effect**" shall mean any event or condition that would reasonably be likely to have a material adverse effect on the business, operations, properties or financial condition of the Company and its consolidated subsidiaries, taken as a whole; provided that none of the following shall constitute a "Material Adverse Effect": the effects of conditions or events that are generally applicable to the capital, financial, banking or currency markets and the biotechnology industry, and changes in the market price of the Common Stock.

2.2 ***Authorization***. (i) The Company has the requisite corporate power and authority to enter into and perform its obligations under this Agreement; (ii) the execution and delivery of this Agreement by the Company, the consummation by the Company of the transactions contemplated hereby and thereby and the issuance, sale and delivery of the Shares have been duly authorized by all necessary corporate action and no further consent or authorization of the Company or its Board of Directors or stockholders is required; and (iii) this Agreement has been duly executed and delivered and constitutes a valid and binding obligation of the Company enforceable against the Company in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, securities, insolvency, or similar laws relating to, or affecting generally the enforcement of, creditors' rights and remedies, or indemnification or by other equitable principles of general application.

2.3 ***Valid Issuance of Shares***. The issuance of the Shares has been duly authorized by all requisite corporate action. When the Shares are issued, sold and delivered in accordance with the terms of this Agreement for the consideration expressed herein, the Shares will be duly and validly issued and outstanding, fully paid, and nonassessable, rank pari passu in all respects with the other issued shares and free and clear of any pledge, mortgage, security interest, encumbrance, lien, charge, assessment, right of first refusal, right of pre-emption, third party right or interest, claim or restriction of any kind or nature, and will be free of restrictions on transfer other than restrictions on transfer under this Agreement and under applicable state and federal securities laws and, except as otherwise set forth herein, the Investor shall be entitled to all rights accorded to a holder of shares of Common Stock. The Company has reserved a sufficient number of shares of Common Stock for issuance to the Investor in accordance with the Company's obligations under this Agreement.

2.4 ***No Conflict***. The execution, delivery and performance of this Agreement, and any other document or instrument contemplated hereby, by the Company and the consummation by the Company of the transactions contemplated hereby, do not: (i) violate any provision of the Certificate or Bylaws, (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 material agreement, mortgage, deed of trust, indenture, note, bond, license, lease agreement, instrument or obligation to which the Company is a party where such default or conflict would constitute a Material Adverse Effect, (iii) create or impose a lien, charge or encumbrance on any property of the Company under any agreement or any commitment to which the Company is a party or by which the Company is bound, which would constitute a Material Adverse Effect, (iv) result in a violation of any federal, state, local or foreign statute, rule, regulation, order, writ, judgment or decree (including federal and state securities laws and regulations) applicable to the Company or any of its subsidiaries or by which any property or asset of the Company are bound or affected where such violation would constitute a Material Adverse Effect, or (v) require any consent of any third party that has not been obtained pursuant to any material contract to which the Company is subject or to which any of its assets, operations or management may be subject where the failure to obtain any such consent would constitute a Material Adverse Effect. The Company is not required under federal, state or local law, rule or regulation to obtain any consent, authorization or order of, or make any filing or registration with, any court or governmental agency in order for it to execute, deliver or perform any of its obligations under this Agreement or issue and sell the Shares in accordance with the terms hereof (other than any filings that may be required to be made by the Company with the Securities and Exchange Commission (the "**Commission**"), Financial Industry Regulatory Authority, The Nasdaq Stock Market LLC or state securities commissions subsequent to the Closing); provided that, for purposes of the representation made in this sentence, the Company is assuming and relying upon the accuracy of the relevant representations and agreements of the Investor herein.

2.5 ***Compliance***. The Company is not, and the execution and delivery of this Agreement and the consummation of the transactions contemplated herewith will not cause the Company to be, (i) in material violation or default of any provision of any instrument, mortgage, deed of trust, loan, contract, or commitment filed with the Commission Documents, (ii) in violation of any provision of any judgment, decree, order or obligation to which it is a party or by which it or any of its properties or assets are bound, or (iii) in violation of any federal, state or, to its knowledge, local statute, rule or governmental regulation, in the case of each of clauses (ii) and (iii), which would have a Material Adverse Effect.

2.6 ***Capitalization***. As of November 1, 2021 (the "**Reference Date**"), a total of 83,882,953 shares of Common Stock were issued and outstanding, increased as set forth in the next sentence. Other than in the ordinary course of business, the Company has not issued any capital stock since the Reference Date other than pursuant to (i) employee benefit plans disclosed in the Commission Documents, (ii) grants to directors, officers and employees in the ordinary course and consistent with past practice or as otherwise disclosed in the Commission Documents (including any Form 4 filings by the relevant grantee) and (iii) outstanding warrants, options or other securities disclosed in the Commission Documents. The outstanding shares of capital stock of the Company have been duly and validly issued and are fully paid and nonassessable, were not issued in violation of any preemptive rights or similar rights to subscribe for or purchase securities, and in material compliance with all federal and state securities laws. Except as set forth in the Commission Documents, there are no outstanding rights (including, without limitation, preemptive rights), warrants or options to acquire, or instruments convertible into or exchangeable for, any unissued shares of capital stock or other equity interest in the Company, or any contract, commitment, agreement, understanding or arrangement of any kind to which the Company is a party and relating to the issuance or sale of any capital stock of the Company, any such convertible or exchangeable securities or any such rights, warrants or options. Without limiting the foregoing, no preemptive right, co-sale right, right of first refusal, registration right, or other similar right exists with respect to the Shares or the issuance and sale thereof. Except as disclosed in the Commission Documents, there are no shareholder agreements, voting agreements or other similar agreements with respect to the voting of the Shares to which the Company is a party or, to the knowledge of the Company, between or among any of the Company's shareholders.

2.7 ***Commission Documents, Financial Statements***. The Company's Common Stock is registered pursuant to Section 12(b) or 12(g) of the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"), and during the past twelve (12) months the Company has timely filed all reports, schedules, forms, statements and other documents required to be filed by it with the Commission pursuant to the reporting requirements of the Exchange Act, including material filed pursuant to Section 13(a) or 15(d) of the Exchange Act (all of the foregoing, including filings incorporated by reference therein, being referred to herein as the "**Commission Documents**"). The Company's Common Stock is currently listed or quoted on the Nasdaq Global Select Market. The Company is not in violation of the listing requirements of the Nasdaq Global Select Market and has no knowledge of any facts that would reasonably lead to delisting or suspension of its common stock from The Nasdaq Stock Market LLC in the foreseeable future. Each Commission Document filed within the past twelve (12) months complied in all material respects with the requirements of the Exchange Act and the rules and regulations of the Commission promulgated thereunder applicable to such document, and, as of its date, after giving effect to the information disclosed and incorporated by reference therein, no such Commission Document filed within the past twelve (12) months contained any untrue

statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. As of their respective dates, to the Company's knowledge, the financial statements of the Company included in the Commission Documents filed with the Commission during the past twelve months complied as to form and substance in all material respects with applicable accounting requirements and the published rules and regulations of the Commission or other applicable rules and regulations with respect thereto. Such financial statements have been prepared in accordance with generally accepted accounting principles ("**GAAP**") applied on a consistent basis during the periods involved (except (i) as may be otherwise indicated in such financial statements or the notes thereto or (ii) in the case of unaudited interim statements, to the extent they may not include footnotes or may be condensed or summary statements), and fairly present in all material respects the financial position of the Company as of the dates thereof and the results of operations and cash flows for the periods then ended (subject, in the case of unaudited statements, to normal year-end audit adjustments).

2.8 ***Internal Controls and Procedures.*** The Company maintains disclosure controls and procedures as such terms are defined in, and required by, Rule 13a-15 and Rule 15d-15 under the Exchange Act. Such disclosure controls and procedures are effective as of the latest date of management's evaluation of such disclosure controls and procedures as set forth in the Commission Documents to ensure that all material information required to be disclosed by the Company in the reports that it files or furnishes under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the rules and forms of the Commission. The Company maintains a system of internal controls over financial reporting sufficient to provide reasonable assurance that (i) transactions are executed in accordance with management's general or specific authorizations; and (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP.

2.9 ***No Undisclosed Liabilities***. To the Company's knowledge, neither the Company nor any of its subsidiaries has any liabilities, obligations, claims or losses (whether liquidated or unliquidated, secured or unsecured, absolute, accrued, contingent or otherwise) that would be required to be disclosed on a balance sheet of the Company or any of its subsidiaries (including the notes thereto) in conformity with GAAP and are not disclosed in the Commission Documents, other than those incurred in the ordinary course of the Company's business since November 1, 2021 or which, individually or in the aggregate, do not or would not have a Material Adverse Effect on the Company.

2.10 ***No Undisclosed Events or Circumstances***. Except for the transactions contemplated by this Agreement and the other Transaction Agreements, no event or circumstance has occurred or exists with respect to the Company, its subsidiaries, or their respective businesses, properties, operations or financial condition, which, under applicable law, rule or regulation, requires public disclosure or announcement by the Company but which has not been so publicly announced or disclosed and which, individually or in the aggregate, would have a Material Adverse Effect on the Company.

2.11 ***Actions Pending***. There is no action, suit, claim, investigation or proceeding pending or, to the knowledge of the Company, threatened against the Company or any subsidiary which questions the validity of this Agreement or the transactions contemplated hereby or any action taken or to be taken pursuant hereto. Except as set forth in the Commission Documents or as previously disclosed in writing to the Investor, there is no action, suit, claim, investigation or proceeding pending or, to the knowledge of the Company, threatened, against or involving the Company, any subsidiary, or any of their respective properties or assets that could be reasonably expected to have a Material Adverse Effect on the Company. Except as set forth in the Commission Documents or as previously disclosed to the Investor in writing, no judgment, order, writ, injunction or decree or award has been issued by or, to the knowledge of the Company, requested of any court, arbitrator or governmental agency which could be reasonably expected to result in a Material Adverse Effect.

2.12 ***Compliance with Law***. The businesses of the Company and its subsidiaries have been and are presently being conducted in accordance with all applicable federal, state and local governmental laws, rules, regulations and ordinances, except as set forth in the Commission Documents or such that would not reasonably be expected to cause a Material Adverse Effect. Except as set forth in the Commission Documents, the Company and each of its subsidiaries have all franchises, permits, licenses, consents and other governmental or regulatory authorizations and approvals necessary for the conduct of its business as now being conducted by it, except for such franchises, permits, licenses, consents and other governmental or regulatory authorizations and approvals, the failure to possess which, individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect.

2.13 ***Exemption from Registration, Valid Issuance***. Subject to, and in reliance on, the representations, warranties and covenants made herein by the Investor, the issuance and sale of the Shares in accordance with the terms and on the bases of the representations and warranties set forth in this Agreement, may and shall be properly issued pursuant to Section 4(a)(2) of the Securities Act of 1933, as amended (the "**Securities Act**"), Regulation D promulgated pursuant to the Securities Act ("**Regulation D**") and/or any other applicable federal and state securities laws. The sale and issuance of the Shares pursuant to, and the Company's performance of its obligations under, this Agreement will not (i) result in the creation or imposition of any liens, charges, claims or other encumbrances upon the Shares or any of the assets of the Company, or (ii) entitle the holders of any outstanding shares of capital stock of the Company to preemptive or other rights to subscribe to or acquire the Shares or other securities of the Company.

2.14 ***Transfer Taxes***. All stock transfer or other taxes (other than income taxes) which are required to be paid in connection with the sale and transfer of the Shares to be sold to Investor 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 fully complied with.

2.15 ***Investment Company***. The Company is not and, after giving effect to the offering and sale of the Shares, will not be an "investment company" as defined in the Investment Company Act of 1940, as amended.

2.16 ***Brokers***. Except as expressly set forth in this Agreement or the other Transaction Agreements, no brokers, finders or financial advisory fees or commissions will be payable by the Company or any of its subsidiaries in respect of the transactions contemplated by this Agreement or the other Transaction Agreements.

SECTION 3

Representations and Warranties of the Investor

The Investor hereby represents and warrants the following as of the Closing Date:

3.1 ***Experience***. The Investor is experienced in evaluating companies such as the Company, has such knowledge and experience in financial and business matters that the Investor is capable of evaluating the merits and risks of the Investor's prospective investment in the Company, and has the ability to bear the economic risks of the investment.

3.2 ***Investment***. The Investor is acquiring the Shares for investment for the Investor's own account and not with the view to, or for resale in connection with, any distribution thereof. The Investor understands that the Shares have not been and will not be registered under the Securities Act by reason of a specific exemption from the registration provisions of the Securities Act which depends upon, among other things, the bona fide nature of the investment intent as expressed herein. The Investor acknowledges and agrees that the Shares purchased by the Investor, until disposition of such Shares in accordance with the provisions of this Agreement, shall remain at all times within the Investor's control. The Investor further represents that it does not have any contract, undertaking, agreement or arrangement with any person to sell, transfer or grant participation to any third person with respect to any of the Shares.

3.3 ***Rule 144***. The Investor acknowledges that the Shares must be held indefinitely unless subsequently registered under the Securities Act or an exemption from such registration is available. The Investor is aware of the provisions of Rule 144 promulgated under the Securities Act which permit limited resale of shares purchased in a private placement subject to the satisfaction of certain conditions. In connection therewith, the Investor acknowledges that the Company will make a notation on its stock books regarding the restrictions on transfers set forth in this Section 3 and will transfer the Shares on the books of the Company only to the extent not inconsistent therewith.

3.4 ***Access to Information***. The Investor has received and reviewed information about the Company and has had an opportunity to discuss the Company's business, management and financial affairs with its management and to review the Company's facilities. The Investor has had a full opportunity to ask questions of and receive answers from the Company, or any person or persons acting on behalf of the Company, concerning the terms and conditions of an investment in the Shares. The Investor is not relying upon, and has not relied upon, any statement, representation or warranty made by any person, except for the statements, representations and warranties made by the Company or in respect of the Company contained in this Agreement and the other Transaction Agreements.

3.5 ***Authorization***. This Agreement when executed and delivered by the Investor will constitute a valid and legally binding obligation of the Investor, enforceable in accordance with its terms, subject to: (i) judicial principles respecting election of remedies or limiting the availability of specific performance, injunctive relief, and other equitable remedies; and (ii) bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereafter in effect generally relating to or affecting creditors' rights.

3.6 ***Investor Status***. The Investor acknowledges that it is either (i) an institutional "accredited investor" as defined in Rule 501(a) of Regulation D of the Securities Act (an "**Institutional Accredited Investor**") or (ii) a "qualified institutional buyer" as defined in Rule 144A of the Securities Act, as indicated on Schedule A hereto, and the Investor shall submit to the Company such further assurances of such status as may be reasonably requested by the Company.

3.7 ***No Inducement***. The Investor was not induced to participate in the offer and sale of the Shares by the filing of any registration statement in connection with any public offering of the Company's securities, and the Investor's decision to purchase the Shares hereunder was not influenced by the information contained in any such registration statement.

SECTION 4

Conditions to Investor's Obligations at Closing

The obligations of the Investor under this Agreement are subject to the fulfillment on or before the Closing of each of the following conditions, any of which may be waived in writing by the Investor (except to the extent not permitted by law):

4.1 ***No Injunction, etc***. No preliminary or permanent injunction or other binding order, decree or ruling issued by a court or governmental agency shall be in effect which shall have the effect of preventing the consummation of the transactions contemplated by this Agreement. No action or claim shall be pending before any court or quasi-judicial or administrative agency of any federal, state, local or foreign jurisdiction or before any arbitrator wherein an unfavorable injunction, judgment, order, decree, ruling or charge would be reasonably likely to (i) prevent consummation of any of the transactions contemplated by this Agreement, (ii) cause any of the transactions contemplated by this Agreement to be rescinded following consummation or (iii) have the effect of making illegal the purchase of, or payment for, any of the Shares by the Investor.

4.2 ***Representations and Warranties***. The representations and warranties of the Company contained in Section 2 shall have been true and correct in all material respects (except for such representations and warranties that are qualified by materiality which shall be true and correct in all respects) on and as of the Closing Date with the same effect as though such representations and warranties had been made on and as of such date.

4.3 ***Performance***. The Company shall have performed and complied with all covenants, agreements, obligations and conditions contained in this Agreement that are required to be performed or complied with by it on or before the Closing Date.

4.4 ***Compliance Certificate***. A duly authorized officer of the Company shall deliver to the Investor at the Closing a certificate stating that the conditions specified in Sections 4.2 and 4.3 have been fulfilled and certifying and attaching the Company's Certificate of Incorporation, Bylaws and authorizing Board of Directors resolutions with respect to this Agreement, the other Transaction Agreements and the transactions contemplated hereby and thereby.

4.5 ***Securities Laws***. The offer and sale of the Shares to the Investor pursuant to this Agreement shall be exempt from the registration requirements of the Securities Act and the registration and/or qualification requirements of all applicable state securities laws.

4.6 ***Transaction Agreements.*** The Company shall have delivered to the Investor the duly executed Transaction Agreements.

4.7 ***Authorizations***. All authorizations, approvals or permits, if any, of any governmental authority or regulatory body that are required in connection with the lawful issuance and sale of the Shares pursuant to this Agreement shall have been duly obtained and shall be effective on and as of the Closing.

SECTION 5

Conditions to the Company's Obligations at Closing

The obligations of the Company to the Investor under this Agreement are subject to the fulfillment on or before the Closing of each of the following conditions by the Investor:

5.1 ***Representations and Warranties***. The representations and warranties of the Investor contained in Section 3 shall be true and correct in all material respects (except for such representations and warranties that are qualified by materiality which shall be true and correct in all respects) on and as of the Closing with the same effect as though such representations and warranties had been made on and as of the Closing.

5.2 ***Securities Law Compliance***. The offer and sale of the Shares to the Investor pursuant to this Agreement shall be exempt from the registration requirements of the Securities Act and the registration and/or qualification requirements of all applicable state securities laws.

5.3 ***Transaction Agreements.*** The Investor shall have delivered to the Company the duly executed Transaction Agreements.

5.4 ***Authorization***. All authorizations, approvals or permits, if any, of any governmental authority or regulatory body that are required in connection with the lawful issuance and sale of the Shares pursuant to this Agreement shall have been duly obtained and shall be effective on and as of the Closing.

SECTION 6

Investor Covenants

6.1 ***Trading Restrictions***.

(a) Definitions.

(i) "**Affiliate**" shall have the meaning set forth in Rule 12b-2 of the regulations promulgated under the Securities Exchange Act of 1934, as amended.

(ii) "**Restriction Period**" shall mean the period commencing on the Closing Date and continuing until the date that is one (1) year from such date.

(iii) "**Significant Event**" shall mean any of the following not involving a violation of this Section 6: (A) the public announcement of a proposal or intention to acquire, or the acquisition, by any person or 13D Group of beneficial ownership of Voting Securities representing 15% or more of the then outstanding Voting Securities; (B) the public announcement of a proposal or intention to commence, or the commencement, by any person or 13D Group of a tender or exchange offer to acquire Voting Securities which, if successful, would result in such person or 13D Group owning, when combined with any other Voting Securities owned by such person or 13D Group, 15% or more of the then outstanding Voting Securities; or (C) the entry into by the Company, or the public announcement by the Company of an intention or determination to enter into, any merger, sale or other business combination transaction, or an agreement therefor, pursuant to which the outstanding shares of capital stock of the Company would be converted into cash, other consideration or securities of another person or 13D Group or 50% or more of the then outstanding shares of capital stock of the Company would be owned by persons other than the then current holders of shares of capital stock of the Company, or which would result in all or a substantial portion of the Company's assets being sold to any person or 13D Group.

(iv) "**Voting Securities**" shall mean at any time shares of any class of capital stock of the Company which are then entitled to vote generally in the election of directors.

(v) "**13D Group**" shall mean, with respect to the Voting Securities of the Company, any group of persons formed for the purpose of acquiring, holding, voting or disposing of such Voting Securities which would be required under Section 13(d) of the Exchange Act and the rules and regulations thereunder to file a statement on Schedule 13D with the Commission as a "person" within the meaning of Section 13(d)(3) of the Exchange Act if such group beneficially owned Voting Securities representing more than 5% of the total combined voting power of all such Voting Securities then outstanding.

(b) Restriction Period No Sell. The Investor agrees that, except as provided below and as otherwise expressly permitted under this Agreement, during the Restriction Period, neither the Investor nor any of its Affiliates shall offer, sell, contract to sell, pledge, grant any option to purchase, make any short sale or otherwise dispose of in any manner, either directly or indirectly ("**Sale**" or "**Sell**"), any Shares, or any securities of the Company issued as a dividend or distribution on, or involving a recapitalization or reorganization with respect to, such Shares (collectively, "**Covenant**

Shares"), other than transfers of securities between and among the Investor and any one or more of its Affiliates. The Company shall use commercially reasonable efforts to permit the Covenant Shares to be eligible for clearance and settlement through the facilities of The Depository Trust Company immediately following the termination of the Restriction Period.

(c) [*]

(d) Notwithstanding anything else contained in this Section 6.1, (x), the Investor and its Affiliates may at any time sell [*].

(e) Occurrence of Significant Event. The restrictions contained in Sections 6.1(b) and (c) shall be suspended and shall not apply to or otherwise restrict the Investor's actions in respect of the Company's securities for so long as a Significant Event has occurred and is continuing.

6.2 ***Invalid Transfers***. Any sale, assignment or other transfer of Covenant Shares by the Investor or any of its Affiliates, as applicable, contrary to the provisions of this Section 6 shall be null and void, and the transferee shall not be recognized by the Company as the holder or owner of the Covenant Shares sold, assigned, or transferred for any purpose (including, without limitation, voting or dividend rights), unless and until the Investor or such Affiliate, as applicable, has satisfied the requirements of this Section 6 with respect to such sale. The Investor shall provide the Company with written evidence that such requirements have been met or waived, prior to it or its Affiliates consummating any sale, assignment or other transfer of securities, and no Covenant Shares shall be transferred on the books of the Company until such written evidence has been received by the Company from the Investor. The Company, or, at the instruction of the Company, the transfer agent of the Company, may place a legend on any certificate representing Covenant Shares stating that such shares are subject to the restrictions contained in this Agreement. Upon delivery by the Investor of the written evidence required above, the Company agrees to facilitate the timely preparation and delivery (but in no event longer than five (5) business days) of certificates representing the Covenant Shares to be sold by the Investor or any Affiliate free of any restrictive legends and in such denominations and registered in such names as the Investor or such Affiliate may request in connection with such sale.

6.3 ***Performance by Affiliates.*** The Investor shall remain responsible for and guarantee its Affiliates' performance in connection with this Agreement, and shall cause each such Affiliate to comply fully with the provisions of this Agreement in connection with such performance.

SECTION 7

Restricted Securities

7.1 ***Rule 144 Reporting***. With a view to making available to the Investor the benefits of certain rules and regulations of the Commission which may permit the sale of the Shares to the public without registration, the Company agrees that, as from the Closing Date until such date falling three hundred sixty-five (365) days thereafter, it shall use commercially reasonable efforts to:

(a) Make and keep public information available, as those terms are understood and defined in Rule 144 promulgated under the Securities Act;

(b) File with the Commission in a timely manner all reports and other documents required of the Company under the Exchange Act; and

(c) Furnish the Investor forthwith upon request (i) a written statement by the Company as to its compliance with the public information requirements of said Rule 144, (ii) a copy of the most recent annual or quarterly report of the Company, and (iii) such other reports and documents as may be reasonably requested in availing the Investor of any rule or regulation of the Commission permitting the sale of any such securities without registration.

7.2 ***Restrictive Legend***. The certificates representing the Shares, when issued, will bear a restrictive legend in substantially the following form:

"THE SECURITIES EVIDENCED OR CONSTITUTED HEREBY HAVE BEEN ISSUED WITHOUT REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"), AND MAY NOT BE SOLD, OFFERED FOR SALE, TRANSFERRED, PLEDGED OR HYPOTHECATED WITHOUT REGISTRATION UNDER THE ACT UNLESS EITHER (i) THE COMPANY HAS RECEIVED AN OPINION OF COUNSEL, IN FORM AND SUBSTANCE REASONABLY SATISFACTORY TO THE COMPANY, TO THE EFFECT THAT REGISTRATION IS NOT REQUIRED IN CONNECTION WITH SUCH DISPOSITION OR (ii) THE SALE OF SUCH SECURITIES IS MADE PURSUANT TO SECURITIES AND EXCHANGE COMMISSION RULE 144."

7.3 ***Unlegended Shares***. Following completion of the Restriction Period, the Investor may request that the Company remove, and the Company agrees to authorize the removal of, any legend from such Shares, (i) in connection with any sale (which for the avoidance of doubt includes any planned sales within a reasonable period of time) of such Shares pursuant to Rule 144 (*provided that* any legend would only be removed in connection with the consummation of any such sale) or (ii) following the time a legend is no longer required with respect to such Shares. If a legend is no longer required pursuant to the foregoing, the Company will, no later than five (5) business days following the request by the Investor to the Company to remove such legends (along with such other documents as the Company or the Company's transfer agent may reasonably request, including an opinion of counsel), deliver or cause to be delivered to the Investor in book-entry form or a certificate representing such Shares that is free from all restrictive legends. Certificates for Shares free from all restrictive legends may be transmitted by the Company's transfer agent to the Investor as directed by the Investor. The Company warrants that the Shares shall otherwise be freely transferable on the books and records of the Company as and to the extent provided in this Agreement.

SECTION 8

Indemnification

8.1 Each Party (an "**Indemnifying Party**") hereby indemnifies and holds harmless the other Party, such other Party's respective officers, directors, employees, consultants, representatives and advisers, and any and all Affiliates (as defined in Section 6.1(a)) of the foregoing (each of the foregoing, an "**Indemnified Party**") from and against all losses, liabilities, costs, damages and expense (including reasonable legal fees and expenses) (collectively, "**Losses**") suffered or incurred by any such Indemnified Party to the extent arising from, connected with or related to (i) breach of

any representation or warranty of such Indemnifying Party in this Agreement; and (ii) breach of any covenant or undertaking of any Indemnifying Party in this Agreement, except for such Losses determined in a final judgement by a court of competent jurisdiction to have arisen from the gross negligence or willful misconduct of the Indemnified Party or the Indemnified Party's breach of representation, warranty, covenant or undertaking under this Agreement. If an event or omission (including, without limitation, any claim asserted or action or proceeding commenced by a third party) occurs which an Indemnified Party asserts to be an indemnifiable event pursuant to this Section 8, the Indemnified Party will provide written notice to the Indemnifying Party, setting forth the nature of the claim and the basis for indemnification under this Agreement. The Indemnified Party will give such written notice to the Indemnifying Party immediately after it becomes aware of the existence of any such event or occurrence. Such notice will be a condition precedent to any obligation of the Indemnifying Party to act under this Agreement but will not relieve it of its obligations under the indemnity except to the extent that the failure to provide prompt notice as provided in this Agreement actually prejudices the Indemnifying Party with respect to the transactions contemplated by this Agreement and to the defense of the liability. In case any such action is brought by a third party against any Indemnified Party and it notifies the Indemnifying Party of the commencement thereof, the Indemnifying Party will be entitled to participate therein and, to the extent that it wishes, to assume the defense and settlement thereof with counsel reasonably selected by it and, after notice from the Indemnifying Party to the Indemnified Party of such election so to assume the defense and settlement thereof, the Indemnifying Party will not be liable to the Indemnified Party for any legal expenses of other counsel or any other expenses subsequently incurred by such Indemnified Party in connection with the defense thereof; provided, however, that an Indemnified Party shall have the right to employ one separate counsel at the expense of the Indemnifying Party if (i) the employment thereof has been specifically authorized in writing by the Indemnifying Party; or (ii) representation of both parties by the same counsel would be inappropriate due to actual or potential conflicts of interests between such parties (which such judgment shall be made in good faith after consultation with counsel). The Indemnified Party agrees to cooperate fully with (and to provide all relevant documents and records and make all relevant personnel available to) the Indemnifying Party and its counsel, as reasonably requested, in the defense of any such asserted claim at no additional cost to the Indemnifying Party. No Indemnifying Party will consent to the entry of any judgment or enter into any settlement with respect to any such asserted claim without the prior written consent of the Indemnified Party, not to be unreasonably withheld or delayed, (a) if such judgment or settlement does not include as an unconditional term thereof the giving by each claimant or plaintiff to each Indemnified Party of a release from all liability in respect to such claim or (b) if, as a result of such consent or settlement, injunctive or other equitable relief would be imposed against the Indemnified Party or such judgment or settlement could materially and adversely affect the business, operations or assets of the Indemnified Party. No Indemnified Party will consent to the entry of any judgment or enter into any settlement with respect to any such asserted claim without the prior written consent of the Indemnifying Party, not to be unreasonably withheld or delayed. If an Indemnifying Party makes a payment with respect to any claim under the representations or warranties set forth herein and the Indemnified Party subsequently receives from a third party or under the terms of any insurance policy a sum in respect of the same claim, the receiving party will repay to the other party such amount that is equal to the sum subsequently received.

SECTION 9

Miscellaneous

9.1 ***Governing Law; Exclusive Jurisdiction; Venue***. This Agreement shall be governed in all respects by the laws of the State of New York without application of any provisions thereof that would require the application of the laws of any other jurisdiction. Each of the Parties irrevocably agrees that any legal action or proceeding with respect to this Agreement and the rights and obligations arising hereunder, or for recognition and enforcement of any judgment in respect of this Agreement and the rights and obligations arising hereunder brought by another Party or its successors or assigns, will be brought and determined exclusively in (i) the state courts of the State of New York in Manhattan, New York, or (ii) the United States District Court for the Southern District of New York. Each of the Parties hereby irrevocably submits with regard to any such action or proceeding for itself and in respect of its property, generally and unconditionally, to the personal jurisdiction of the aforesaid courts and agrees that it will not bring any action relating to this Agreement or any of the transactions contemplated by this Agreement in any court other than the aforesaid courts. Each of the Parties hereby irrevocably waives, and agrees not to assert as a defense, counterclaim or otherwise, in any action or proceeding with respect to this Agreement, (x) any claim that it is not personally subject to the jurisdiction of the above named courts for any reason other than the failure to serve in accordance with this Section 9.1, (y) any claim that it or its property is exempt or immune from the jurisdiction of any such court or from any legal process commenced in such courts (whether through service of notice, attachment prior to judgment, attachment in aid of execution of judgment, execution of judgment or otherwise) and (z) to the fullest extent permitted by applicable law, any claim that (1) the suit, action or proceeding in such court is brought in an inconvenient forum, (2) the venue of such suit, action or proceeding is improper or (3) this Agreement, or the subject matter hereof, may not be enforced in or by such courts. Each of the Parties agrees that service of process upon such Party in any such action or proceeding will be effective if such process is given as a notice in accordance with Section 9.5. EACH OF THE PARTIES HEREBY IRREVOCABLY WAIVES TO THE EXTENT PERMITTED BY APPLICABLE LAW ANY AND ALL RIGHT TO A TRIAL BY JURY IN ANY DIRECT OR INDIRECT ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY. EACH PARTY (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER, (B) MAKES THIS WAIVER VOLUNTARILY, AND (C) ACKNOWLEDGES THAT EACH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS CONTAINED IN THIS SECTION 9.1.

9.2 ***Amendment***. This Agreement shall not be amended, changed or modified, except by another agreement in writing executed by the Parties.

9.3 ***Survival***. The representations, warranties, covenants and agreements made herein shall survive any investigation made by the Investor and the Closing.

9.4 ***Successors, Assigns***. Except as otherwise provided herein, the provisions hereof shall inure to the benefit of, and be binding upon, the successors, assigns, heirs, executors and administrators of the parties hereto. This Agreement may not be assigned by either Party without the prior written consent of the other; except that either Party may assign this Agreement to an Affiliate (as defined in Section 6.1(a)) of such Party or to any third party that acquires all or substantially all of such party's business, whether by merger, sale of assets or otherwise. In case of an assignment by either Party to its Affiliate, such Affiliate must agree in writing that, in case such Affiliate ceases to be an Affiliate of the assigning Party, the Agreement, or in case of an assignment of rights or obligations, such assigned rights shall automatically be re-assigned and transfer back to such assigning Party, and that the parties to such assignment agreement will do all acts that are required to effectuate such reassignment and transfer back to such assigning Party. Any attempted assignment or delegation in violation of this Section 9.4 shall be void and of no effect. All validly assigned and delegated rights and obligations of the Parties hereunder shall be binding upon and inure to the benefit of and be enforceable by and against the successors and permitted assigns of the Company or the Investor, as the case may be. The permitted assignee or transferee shall assume all obligations of its assignor or transferor under this Agreement.

9.5 ***Notices***. All notices and other communications required or permitted hereunder shall be in writing and shall be sent by facsimile (receipt confirmed) or mailed by registered or certified mail, postage prepaid, return receipt requested, or otherwise delivered by hand or by messenger, addressed

if to the Investor, at the following address:

c/o RTW Investments, LP
40 10th Avenue, Floor 7
New York, NY 10014
Attention: Roderick Wong and Alice Lee
Telephone: [*]
Email: [*]

if to the Company, at the following address:

Cytokinetics, Incorporated
350 Oyster Point Boulevard
South San Francisco, CA 94080
Attention: General Counsel
Facsimile: [*]
Email: [*]

or at such other address as one Party shall have furnished to the other Party in writing. All notices and communications under this Agreement shall be deemed to have been duly given (i) when delivered by hand, if personally delivered, (ii) when received by a recipient, if sent by email, (iii) when sent, if sent by facsimile, with an acknowledgement of sending being produced by the sending facsimile machine or (iv) one Business Day following sending within the United States by overnight delivery via commercial one-day overnight courier service.

9.6 ***Expenses***. Each of the Company and the Investor shall bear its own expenses and legal fees incurred on its behalf with respect to this Agreement and the transactions contemplated hereby.

9.7 ***Finder's Fees***. Each of the Company and the Investor shall indemnify and hold the other harmless from any liability for any commission or compensation in the nature of a finder's fee, placement fee or underwriter's discount (including the costs, expenses and legal fees of defending against such liability) for which the Company or the Investor, or any of its respective partners, employees, or representatives, as the case may be, is responsible.

9.8 ***Counterparts***. This Agreement may be executed in counterparts, each of which shall be deemed to be an original and enforceable against the party actually executing the counterpart, and all of which together shall constitute one and the same instrument. This Agreement may be executed by electronically transmitted signatures (including, without limitation, through the use of eSignature platforms such as DocuSign®) and such signatures shall be deemed to bind each Party hereto as if they were original signatures; and that this Agreement, or any part thereof, shall not be challenged or denied any legal effect, validity and/or enforceability solely on the ground that it is executed by electronically transmitted signatures.

9.9 ***Severability***. In the event that any provision of this Agreement becomes or is declared by a court of competent jurisdiction to be illegal, unenforceable or void, this Agreement shall continue in full force and effect without said provision; provided that no such severability shall be effective if it materially changes the economic benefit of this Agreement to any party.

9.10 ***Entire Agreement***. This Agreement and the other Transaction Agreements, including the exhibits and schedule attached hereto and thereto, constitute the full and entire understanding and agreement among the parties with regard to the subjects hereof and thereof. No party shall be liable or bound to any other party in any manner with regard to the subjects hereof or thereof by any warranties, representations or covenants except as specifically set forth herein or therein.

9.11 ***Specific Performance***. The Parties agree that irreparable damage would occur in the event any provision of this Agreement were not performed in accordance with the terms hereof and that the Parties shall be entitled to specific performance of the terms hereof, in addition to any other remedy at law or equity.

9.12 ***Headings***. The headings of the various articles and sections of this Agreement are inserted merely for the purpose of convenience and do not expressly or by implication limit, define or extend the specific terms of the section so designated.

9.13 ***Waiver***. The failure of either party to assert a right hereunder or to insist upon compliance with any term or condition of this Agreement shall not constitute a waiver of that right or excuse a similar subsequent failure to perform any such term or condition by the other party. None of the terms, covenants and conditions of this Agreement can be waived except by the written consent of the party waiving compliance.

[*Remainder of page left intentionally blank.*]

IN WITNESS WHEREOF, the Parties have executed this Common Stock Purchase Agreement as of the date first set forth above.

CYTOKINETICS, INCORPORATED		**RTW MASTER FUND, LTD.**	
By:	/s/ Robert I. Blum	By:	/ s/ Roderick Wong
Name:	Robert I. Blum	Name:	Roderick Wong, M.D.
Title:	President and CEO	Title:	Director

Schedule A

The Investor is an institutional “accredited investor” as defined in Rule 501(a) of Regulation D of the Securities Act.

Schedule B

Schedule of Exceptions

None

Exhibit 10.16

[*] – CERTAIN INFORMATION IN THIS DOCUMENT HAS BEEN EXCLUDED PURSUANT TO REGULATION S-K, ITEM 601(B)(10). SUCH EXCLUDED INFORMATION IS NOT MATERIAL AND WOULD LIKELY CAUSE COMPETITIVE HARM TO THE REGISTRANT IF PUBLICLY DISCLOSED.

CYTOKINETICS, INCORPORATED

COMMON STOCK PURCHASE AGREEMENT

THIS COMMON STOCK PURCHASE AGREEMENT (the "**Agreement**") is made as of December 20, 2021 (the "**Closing Date**") by and between Cytokinetics, Incorporated, a Delaware corporation (the "**Company**"), and RTW Innovation Master Fund, Ltd., with a business address located at [*] (the "**Investor**", and together with the Company, collectively, the "**Parties**" and individually, a "**Party**").

RECITALS

WHEREAS, the Company and Ji Xing Pharmaceuticals Limited ("**Ji Xing**"), an Affiliate (as defined below) of the Investor, have entered into that certain License and Collaboration Agreement (the "**License Agreement**"), and the Company and each of RTW Master Fund, Ltd. and RTW Venture Fund Limited have entered into common stock purchase agreements on substantially the same terms (other than price and share quantity) as this Agreement (each of the foregoing, together with the License Agreement, collectively, the "**Transaction Agreements**"), each of even date herewith;

WHEREAS, to induce the Company to grant certain rights under the License Agreement to Ji Xing, the Investor and its affiliates have collectively undertaken to purchase from the Company an aggregate of $20,000,000 of the Company's common stock, par value $0.001 per share (the "**Common Stock**") upon the terms and subject to the conditions set forth in this Agreement (and with respect to the Investor's affiliates purchasing the Common Stock concurrently with the Investor, separate common stock purchase agreements in the same form and substance as this Agreement);

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

SECTION 1

Purchase and Sale of Shares

1.1 ***Sale of Shares***. Subject to the terms and conditions hereof, the Company will issue and sell to the Investor, and the Investor will purchase from the Company, at the Closing, 242,169 shares of common stock of the Company (hereafter referred to as the "**Shares**"), free and clear of all liens or encumbrances, in consideration of a cash payment of nine million four hundred seventy-four thousand eight hundred sixty-two dollars ($9,474,862.13) (the "**Aggregate Purchase Price**").

1.2 ***Closing***. The purchase and sale of the Shares shall take place at a closing (the "**Closing**") to be held at the offices of Cooley LLP, 3175 Hanover Street, Palo Alto, California 94304-1130, on the Closing Date. At the Closing, the Company will deliver or cause to be delivered to the Investor in book entry form a certificate or certificates representing the Shares that the Investor is purchasing and, concurrently, the Investor shall pay the Aggregate Purchase Price by (a) check payable to the Company, (b) wire transfer in accordance with the Company's instructions, or (c) any combination of the foregoing.

1.3 ***Tax Treatment***. For U.S. federal income and other applicable tax purposes, the Investor and the Company agree to treat the issuance and sale of the Shares by the Company, and the purchase of the Shares by the Investor, in accordance with the terms hereof as separate and independent from any transactions entered into by the Company and the Investor or its Affiliates, other than those contemplated by this Agreement, and to report the transactions contemplated by this Agreement on U.S. federal income tax and other applicable tax returns in accordance with this Section 1.3 unless otherwise required by applicable law.

SECTION 2

Representations and Warranties of the Company

Except as set forth on the Schedule of Exceptions attached hereto as Schedule B, the Company hereby represents and warrants the following as of the Closing Date:

2.1 ***Organization and Good Standing and Qualifications***. The Company is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and has all requisite power and authority to own, lease, operate and occupy its properties and to carry on its business as now being conducted. Except as set forth in the Commission Documents (as defined below), the Company does not own more than 50% of the outstanding capital stock of or control any other business entity. The Company is duly qualified as a foreign corporation to do business and is in good standing in every jurisdiction in which the nature of the business conducted or property owned or leased by it makes such qualification necessary, other than those in which the failure so to qualify or be in good standing would not have a Material Adverse Effect. For purposes of this Agreement, "**Material Adverse Effect**" shall mean any event or condition that would reasonably be likely to have a material adverse effect on the business, operations, properties or financial condition of the Company and its consolidated subsidiaries, taken as a whole; provided that none of the following shall constitute a "Material Adverse Effect": the effects of conditions or events that are generally applicable to the capital, financial, banking or currency markets and the biotechnology industry, and changes in the market price of the Common Stock.

2.2 ***Authorization***. (i) The Company has the requisite corporate power and authority to enter into and perform its obligations under this Agreement; (ii) the execution and delivery of this Agreement by the Company, the consummation by the Company of the transactions contemplated hereby and thereby and the issuance, sale and delivery of the Shares have been duly authorized by all necessary corporate action and no further consent or authorization of the Company or its Board of Directors or stockholders is required; and (iii) this Agreement has been duly executed and delivered and constitutes a valid and binding obligation of the Company enforceable against the Company in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, securities, insolvency, or similar laws relating to, or affecting generally the enforcement of, creditors' rights and remedies, or indemnification or by other equitable principles of general application.

2.3 ***Valid Issuance of Shares***. The issuance of the Shares has been duly authorized by all requisite corporate action. When the Shares are issued, sold and delivered in accordance with the terms of this Agreement for the consideration expressed herein, the Shares will be duly and validly issued and outstanding, fully paid, and nonassessable, rank pari passu in all respects with the other issued shares and free and clear of any pledge, mortgage, security interest, encumbrance, lien, charge, assessment, right of first refusal, right of pre-emption, third party right or interest, claim or restriction of any kind or nature, and will be free of restrictions on transfer other than restrictions on transfer under this Agreement and under applicable state and federal securities laws and, except as otherwise set forth herein, the Investor shall be entitled to all rights accorded to a holder of shares of Common Stock. The Company has reserved a sufficient number of shares of Common Stock for issuance to the Investor in accordance with the Company's obligations under this Agreement.

2.4 ***No Conflict***. The execution, delivery and performance of this Agreement, and any other document or instrument contemplated hereby, by the Company and the consummation by the Company of the transactions contemplated hereby, do not: (i) violate any provision of the Certificate or Bylaws, (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 material agreement, mortgage, deed of trust, indenture, note, bond, license, lease agreement, instrument or obligation to which the Company is a party where such default or conflict would constitute a Material Adverse Effect, (iii) create or impose a lien, charge or encumbrance on any property of the Company under any agreement or any commitment to which the Company is a party or by which the Company is bound, which would constitute a Material Adverse Effect, (iv) result in a violation of any federal, state, local or foreign statute, rule, regulation, order, writ, judgment or decree (including federal and state securities laws and regulations) applicable to the Company or any of its subsidiaries or by which any property or asset of the Company are bound or affected where such violation would constitute a Material Adverse Effect, or (v) require any consent of any third party that has not been obtained pursuant to any material contract to which the Company is subject or to which any of its assets, operations or management may be subject where the failure to obtain any such consent would constitute a Material Adverse Effect. The Company is not required under federal, state or local law, rule or regulation to obtain any consent, authorization or order of, or make any filing or registration with, any court or governmental agency in order for it to execute, deliver or perform any of its obligations under this Agreement or issue and sell the Shares in accordance with the terms hereof (other than any filings that may be required to be made by the Company with the Securities and Exchange Commission (the "**Commission**"), Financial Industry Regulatory Authority, The Nasdaq Stock Market LLC or state securities commissions subsequent to the Closing); provided that, for purposes of the representation made in this sentence, the Company is assuming and relying upon the accuracy of the relevant representations and agreements of the Investor herein.

2.5 ***Compliance***. The Company is not, and the execution and delivery of this Agreement and the consummation of the transactions contemplated herewith will not cause the Company to be, (i) in material violation or default of any provision of any instrument, mortgage, deed of trust, loan, contract, or commitment filed with the Commission Documents, (ii) in violation of any provision of any judgment, decree, order or obligation to which it is a party or by which it or any of its properties or assets are bound, or (iii) in violation of any federal, state or, to its knowledge, local statute, rule or governmental regulation, in the case of each of clauses (ii) and (iii), which would have a Material Adverse Effect.

2.6 ***Capitalization***. As of November 1, 2021 (the "**Reference Date**"), a total of 83,882,953 shares of Common Stock were issued and outstanding, increased as set forth in the next sentence. Other than in the ordinary course of business, the Company has not issued any capital stock since the Reference Date other than pursuant to (i) employee benefit plans disclosed in the Commission Documents, (ii) grants to directors, officers and employees in the ordinary course and consistent with past practice or as otherwise disclosed in the Commission Documents (including any Form 4 filings by the relevant grantee) and (iii) outstanding warrants, options or other securities disclosed in the Commission Documents. The outstanding shares of capital stock of the Company have been duly and validly issued and are fully paid and nonassessable, were not issued in violation of any preemptive rights or similar rights to subscribe for or purchase securities, and in material compliance with all federal and state securities laws. Except as set forth in the Commission Documents, there are no outstanding rights (including, without limitation, preemptive rights), warrants or options to acquire, or instruments convertible into or exchangeable for, any unissued shares of capital stock or other equity interest in the Company, or any contract, commitment, agreement, understanding or arrangement of any kind to which the Company is a party and relating to the issuance or sale of any capital stock of the Company, any such convertible or exchangeable securities or any such rights, warrants or options. Without limiting the foregoing, no preemptive right, co-sale right, right of first refusal, registration right, or other similar right exists with respect to the Shares or the issuance and sale thereof. Except as disclosed in the Commission Documents, there are no shareholder agreements, voting agreements or other similar agreements with respect to the voting of the Shares to which the Company is a party or, to the knowledge of the Company, between or among any of the Company's shareholders.

2.7 ***Commission Documents, Financial Statements***. The Company's Common Stock is registered pursuant to Section 12(b) or 12(g) of the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"), and during the past twelve (12) months the Company has timely filed all reports, schedules, forms, statements and other documents required to be filed by it with the Commission pursuant to the reporting requirements of the Exchange Act, including material filed pursuant to Section 13(a) or 15(d) of the Exchange Act (all of the foregoing, including filings incorporated by reference therein, being referred to herein as the "**Commission Documents**"). The Company's Common Stock is currently listed or quoted on the Nasdaq Global Select Market. The Company is not in violation of the listing requirements of the Nasdaq Global Select Market and has no knowledge of any facts that would reasonably lead to delisting or suspension of its common stock from The Nasdaq Stock Market LLC in the foreseeable future. Each Commission Document filed within the past twelve (12) months complied in all material respects with the requirements of the Exchange Act and the rules and regulations of the Commission promulgated thereunder applicable to such document, and, as of its date, after giving effect to the information disclosed and incorporated by reference therein, no such Commission Document filed within the past twelve (12) months contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. As of their respective dates, to the Company's knowledge, the financial statements of the Company included in the Commission Documents filed with the Commission during the past twelve months complied as to form and substance in all material respects with applicable accounting requirements and the published rules and regulations of the Commission or other applicable rules and regulations with respect thereto. Such financial statements have been prepared in accordance with generally accepted accounting principles ("**GAAP**") applied on a consistent basis during the periods involved (except (i) as may be otherwise indicated in such financial statements or the notes thereto or (ii) in the case of unaudited interim statements, to the extent they may not include footnotes or may be condensed or summary statements), and fairly present in all material respects the financial position of the Company as of the dates thereof and the results of operations and cash flows for the periods then ended (subject, in the case of unaudited statements, to normal year-end audit adjustments).

2.8 ***Internal Controls and Procedures.*** The Company maintains disclosure controls and procedures as such terms are defined in, and required by, Rule 13a-15 and Rule 15d-15 under the Exchange Act. Such disclosure controls and procedures are effective as of the latest date of management's evaluation of such disclosure controls and procedures as set forth in the Commission Documents to ensure that all material information required to be disclosed by the Company in the reports that it files or furnishes under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the rules and forms of the Commission. The Company maintains a system of internal controls over financial reporting sufficient to provide reasonable assurance that (i) transactions are executed in accordance with management's general or specific authorizations; and (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP.

2.9 ***No Undisclosed Liabilities***. To the Company's knowledge, neither the Company nor any of its subsidiaries has any liabilities, obligations, claims or losses (whether liquidated or unliquidated, secured or unsecured, absolute, accrued, contingent or otherwise) that would be required to be disclosed on a balance sheet of the Company or any of its subsidiaries (including the notes thereto) in conformity with GAAP and are not disclosed in the Commission Documents, other than those incurred in the ordinary course of the Company's business since November 1, 2021 or which, individually or in the aggregate, do not or would not have a Material Adverse Effect on the Company.

2.10 ***No Undisclosed Events or Circumstances***. Except for the transactions contemplated by this Agreement and the other Transaction Agreements, no event or circumstance has occurred or exists with respect to the Company, its subsidiaries, or their respective businesses, properties, operations or financial condition, which, under applicable law, rule or regulation, requires public disclosure or announcement by the Company but which has not been so publicly announced or disclosed and which, individually or in the aggregate, would have a Material Adverse Effect on the Company.

2.11 ***Actions Pending***. There is no action, suit, claim, investigation or proceeding pending or, to the knowledge of the Company, threatened against the Company or any subsidiary which questions the validity of this Agreement or the transactions contemplated hereby or any action taken or to be taken pursuant hereto. Except as set forth in the Commission Documents or as previously disclosed in writing to the Investor, there is no action, suit, claim, investigation or proceeding pending or, to the knowledge of the Company, threatened, against or involving the Company, any subsidiary, or any of their respective properties or assets that could be reasonably expected to have a Material Adverse Effect on the Company. Except as set forth in the Commission Documents or as previously disclosed to the Investor in writing, no judgment, order, writ, injunction or decree or award has been issued by or, to the knowledge of the Company, requested of any court, arbitrator or governmental agency which could be reasonably expected to result in a Material Adverse Effect.

2.12 ***Compliance with Law***. The businesses of the Company and its subsidiaries have been and are presently being conducted in accordance with all applicable federal, state and local governmental laws, rules, regulations and ordinances, except as set forth in the Commission Documents or such that would not reasonably be expected to cause a Material Adverse Effect. Except as set forth in the Commission Documents, the Company and each of its subsidiaries have all franchises, permits, licenses, consents and other governmental or regulatory authorizations and approvals necessary for the conduct of its business as now being conducted by it, except for such franchises, permits, licenses, consents and other governmental or regulatory authorizations and approvals, the failure to possess which, individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect.

2.13 ***Exemption from Registration, Valid Issuance***. Subject to, and in reliance on, the representations, warranties and covenants made herein by the Investor, the issuance and sale of the Shares in accordance with the terms and on the bases of the representations and warranties set forth in this Agreement, may and shall be properly issued pursuant to Section 4(a)(2) of the Securities Act of 1933, as amended (the "**Securities Act**"), Regulation D promulgated pursuant to the Securities Act ("**Regulation D**") and/or any other applicable federal and state securities laws. The sale and issuance of the Shares pursuant to, and the Company's performance of its obligations under, this Agreement will not (i) result in the creation or imposition of any liens, charges, claims or other encumbrances upon the Shares or any of the assets of the Company, or (ii) entitle the holders of any outstanding shares of capital stock of the Company to preemptive or other rights to subscribe to or acquire the Shares or other securities of the Company.

2.14 ***Transfer Taxes***. All stock transfer or other taxes (other than income taxes) which are required to be paid in connection with the sale and transfer of the Shares to be sold to Investor 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 fully complied with.

2.15 ***Investment Company***. The Company is not and, after giving effect to the offering and sale of the Shares, will not be an "investment company" as defined in the Investment Company Act of 1940, as amended.

2.16 ***Brokers***. Except as expressly set forth in this Agreement or the other Transaction Agreements, no brokers, finders or financial advisory fees or commissions will be payable by the Company or any of its subsidiaries in respect of the transactions contemplated by this Agreement or the other Transaction Agreements.

SECTION 3

Representations and Warranties of the Investor

The Investor hereby represents and warrants the following as of the Closing Date:

3.1 ***Experience***. The Investor is experienced in evaluating companies such as the Company, has such knowledge and experience in financial and business matters that the Investor is capable of evaluating the merits and risks of the Investor's prospective investment in the Company, and has the ability to bear the economic risks of the investment.

3.2 ***Investment***. The Investor is acquiring the Shares for investment for the Investor's own account and not with the view to, or for resale in connection with, any distribution thereof. The Investor understands that the Shares have not been and will not be registered under the Securities Act by reason of a specific exemption from the registration provisions of the Securities Act which depends upon, among other things, the bona fide nature of the investment intent as expressed herein. The Investor acknowledges and agrees that the Shares purchased by the Investor, until disposition of such Shares in accordance with the provisions of this Agreement, shall remain at all times within the Investor's control. The Investor further represents that it does not have any contract, undertaking, agreement or arrangement with any person to sell, transfer or grant participation to any third person with respect to any of the Shares.

3.3 ***Rule 144***. The Investor acknowledges that the Shares must be held indefinitely unless subsequently registered under the Securities Act or an exemption from such registration is available. The Investor is aware of the provisions of Rule 144 promulgated under the Securities Act which permit limited resale of shares purchased in a private placement subject to the satisfaction of certain conditions. In connection therewith, the Investor acknowledges that the Company will make a notation on its stock books regarding the restrictions on transfers set forth in this Section 3 and will transfer the Shares on the books of the Company only to the extent not inconsistent therewith.

3.4 ***Access to Information***. The Investor has received and reviewed information about the Company and has had an opportunity to discuss the Company's business, management and financial affairs with its management and to review the Company's facilities. The Investor has had a full opportunity to ask questions of and receive answers from the Company, or any person or persons acting on behalf of the Company, concerning the terms and conditions of an investment in the Shares. The Investor is not relying upon, and has not relied upon, any statement, representation or warranty made by any person, except for the statements, representations and warranties made by the Company or in respect of the Company contained in this Agreement and the other Transaction Agreements.

3.5 ***Authorization***. This Agreement when executed and delivered by the Investor will constitute a valid and legally binding obligation of the Investor, enforceable in accordance with its terms, subject to: (i) judicial principles respecting election of remedies or limiting the availability of specific performance, injunctive relief, and other equitable remedies; and (ii) bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereafter in effect generally relating to or affecting creditors' rights.

3.6 ***Investor Status***. The Investor acknowledges that it is either (i) an institutional "accredited investor" as defined in Rule 501(a) of Regulation D of the Securities Act (an "**Institutional Accredited Investor**") or (ii) a "qualified institutional buyer" as defined in Rule 144A of the Securities Act, as indicated on Schedule A hereto, and the Investor shall submit to the Company such further assurances of such status as may be reasonably requested by the Company.

3.7 ***No Inducement***. The Investor was not induced to participate in the offer and sale of the Shares by the filing of any registration statement in connection with any public offering of the Company's securities, and the Investor's decision to purchase the Shares hereunder was not influenced by the information contained in any such registration statement.

SECTION 4

Conditions to Investor's Obligations at Closing

The obligations of the Investor under this Agreement are subject to the fulfillment on or before the Closing of each of the following conditions, any of which may be waived in writing by the Investor (except to the extent not permitted by law):

4.1 ***No Injunction, etc***. No preliminary or permanent injunction or other binding order, decree or ruling issued by a court or governmental agency shall be in effect which shall have the effect of preventing the consummation of the transactions contemplated by this Agreement. No action or claim shall be pending before any court or quasi-judicial or administrative agency of any federal, state, local or foreign jurisdiction or before any arbitrator wherein an unfavorable injunction, judgment, order, decree, ruling or charge would be reasonably likely to (i) prevent consummation of any of the transactions contemplated by this Agreement, (ii) cause any of the transactions contemplated by this Agreement to be rescinded following consummation or (iii) have the effect of making illegal the purchase of, or payment for, any of the Shares by the Investor.

4.2 ***Representations and Warranties***. The representations and warranties of the Company contained in Section 2 shall have been true and correct in all material respects (except for such representations and warranties that are qualified by materiality which shall be true and correct in all respects) on and as of the Closing Date with the same effect as though such representations and warranties had been made on and as of such date.

4.3 ***Performance***. The Company shall have performed and complied with all covenants, agreements, obligations and conditions contained in this Agreement that are required to be performed or complied with by it on or before the Closing Date.

4.4 ***Compliance Certificate***. A duly authorized officer of the Company shall deliver to the Investor at the Closing a certificate stating that the conditions specified in Sections 4.2 and 4.3 have been fulfilled and certifying and attaching the Company's Certificate of Incorporation, Bylaws and authorizing Board of Directors resolutions with respect to this Agreement, the other Transaction Agreements and the transactions contemplated hereby and thereby.

4.5 ***Securities Laws***. The offer and sale of the Shares to the Investor pursuant to this Agreement shall be exempt from the registration requirements of the Securities Act and the registration and/or qualification requirements of all applicable state securities laws.

4.6 ***Transaction Agreements.*** The Company shall have delivered to the Investor the duly executed Transaction Agreements.

4.7 ***Authorizations***. All authorizations, approvals or permits, if any, of any governmental authority or regulatory body that are required in connection with the lawful issuance and sale of the Shares pursuant to this Agreement shall have been duly obtained and shall be effective on and as of the Closing.

SECTION 5

Conditions to the Company's Obligations at Closing

The obligations of the Company to the Investor under this Agreement are subject to the fulfillment on or before the Closing of each of the following conditions by the Investor:

5.1 ***Representations and Warranties***. The representations and warranties of the Investor contained in Section 3 shall be true and correct in all material respects (except for such representations and warranties that are qualified by materiality which shall be true and correct in all respects) on and as of the Closing with the same effect as though such representations and warranties had been made on and as of the Closing.

5.2 ***Securities Law Compliance***. The offer and sale of the Shares to the Investor pursuant to this Agreement shall be exempt from the registration requirements of the Securities Act and the registration and/or qualification requirements of all applicable state securities laws.

5.3 ***Transaction Agreements.*** The Investor shall have delivered to the Company the duly executed Transaction Agreements.

5.4 ***Authorization***. All authorizations, approvals or permits, if any, of any governmental authority or regulatory body that are required in connection with the lawful issuance and sale of the Shares pursuant to this Agreement shall have been duly obtained and shall be effective on and as of the Closing.

SECTION 6

Investor Covenants

6.1 ***Trading Restrictions***.

(a) Definitions.

(i) "**Affiliate**" shall have the meaning set forth in Rule 12b-2 of the regulations promulgated under the Securities Exchange Act of 1934, as amended.

(ii) "**Restriction Period**" shall mean the period commencing on the Closing Date and continuing until the date that is one (1) year from such date.

(iii) "**Significant Event**" shall mean any of the following not involving a violation of this Section 6: (A) the public announcement of a proposal or intention to acquire, or the acquisition, by any person or 13D Group of beneficial ownership of Voting Securities representing 15% or more of the then outstanding Voting Securities; (B) the public announcement of a proposal or intention to commence, or the commencement, by any person or 13D Group of a tender or exchange offer to acquire Voting Securities which, if successful, would result in such person or 13D Group owning, when combined with any other Voting Securities owned by such person or 13D Group, 15% or more of the then outstanding Voting Securities; or (C) the entry into by the Company, or the public announcement by the Company of an intention or determination to enter into, any merger, sale or other business combination transaction, or an agreement therefor, pursuant to which the outstanding shares of capital stock of the Company would be converted into cash, other consideration or securities of another person or 13D Group or 50% or more of the then outstanding shares of capital stock of the Company would be owned by persons other than the then current holders of shares of capital stock of the Company, or which would result in all or a substantial portion of the Company's assets being sold to any person or 13D Group.

(iv) "**Voting Securities**" shall mean at any time shares of any class of capital stock of the Company which are then entitled to vote generally in the election of directors.

(v) "**13D Group**" shall mean, with respect to the Voting Securities of the Company, any group of persons formed for the purpose of acquiring, holding, voting or disposing of such Voting Securities which would be required under Section 13(d) of the Exchange Act and the rules and regulations thereunder to file a statement on Schedule 13D with the Commission as a "person" within the meaning of Section 13(d)(3) of the Exchange Act if such group beneficially owned Voting Securities representing more than 5% of the total combined voting power of all such Voting Securities then outstanding.

(b) Restriction Period No Sell. The Investor agrees that, except as provided below and as otherwise expressly permitted under this Agreement, during the Restriction Period, neither the Investor nor any of its Affiliates shall offer, sell, contract to sell, pledge, grant any option to purchase, make any short sale or otherwise dispose of in any manner, either directly or indirectly ("**Sale**" or "**Sell**"), any Shares, or any securities of the Company issued as a dividend or distribution on, or involving a recapitalization or reorganization with respect to, such Shares (collectively, "**Covenant Shares**"), other than transfers of securities between and among the Investor and any one or more of its Affiliates. The Company shall use commercially reasonable efforts to permit the Covenant Shares to be eligible for clearance and settlement through the facilities of The Depository Trust Company immediately following the termination of the Restriction Period.

(c) [*]

(d) Notwithstanding anything else contained in this Section 6.1, (x), the Investor and its Affiliates may at any time sell [*].

(e) Occurrence of Significant Event. The restrictions contained in Sections 6.1(b) and (c) shall be suspended and shall not apply to or otherwise restrict the Investor's actions in respect of the Company's securities for so long as a Significant Event has occurred and is continuing.

6.2 ***Invalid Transfers***. Any sale, assignment or other transfer of Covenant Shares by the Investor or any of its Affiliates, as applicable, contrary to the provisions of this Section 6 shall be null and void, and the transferee shall not be recognized by the Company as the holder or owner of the Covenant Shares sold, assigned, or transferred for any purpose (including, without limitation, voting or dividend rights), unless and until the Investor or such Affiliate, as applicable, has satisfied the requirements of this Section 6 with respect to such sale. The Investor shall provide the Company with written evidence that such requirements have been met or waived, prior to it or its Affiliates consummating any sale, assignment or other transfer of securities, and no Covenant Shares shall be transferred on the books of the Company until such written evidence has been received by the Company from the Investor. The Company, or, at the instruction of the Company, the transfer agent of the Company, may place a legend on any certificate representing Covenant Shares stating that such shares are subject to the restrictions contained in this Agreement. Upon delivery by the Investor of the written evidence required above, the Company agrees to facilitate the timely preparation and delivery (but in no event longer than five (5) business days) of certificates representing the Covenant Shares to be sold by the Investor or any Affiliate free of any restrictive legends and in such denominations and registered in such names as the Investor or such Affiliate may request in connection with such sale.

6.3 ***Performance by Affiliates.*** The Investor shall remain responsible for and guarantee its Affiliates' performance in connection with this Agreement, and shall cause each such Affiliate to comply fully with the provisions of this Agreement in connection with such performance.

SECTION 7

Restricted Securities

7.1 ***Rule 144 Reporting***. With a view to making available to the Investor the benefits of certain rules and regulations of the Commission which may permit the sale of the Shares to the public without registration, the Company agrees that, as from the Closing Date until such date falling three hundred sixty-five (365) days thereafter, it shall use commercially reasonable efforts to:

(a) Make and keep public information available, as those terms are understood and defined in Rule 144 promulgated under the Securities Act;

(b) File with the Commission in a timely manner all reports and other documents required of the Company under the Exchange Act; and

(c) Furnish the Investor forthwith upon request (i) a written statement by the Company as to its compliance with the public information requirements of said Rule 144, (ii) a copy of the most recent annual or quarterly report of the Company, and (iii) such other reports and documents as may be reasonably requested in availing the Investor of any rule or regulation of the Commission permitting the sale of any such securities without registration.

7.2 ***Restrictive Legend***. The certificates representing the Shares, when issued, will bear a restrictive legend in substantially the following form:

"THE SECURITIES EVIDENCED OR CONSTITUTED HEREBY HAVE BEEN ISSUED WITHOUT REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"), AND MAY NOT BE SOLD, OFFERED FOR SALE, TRANSFERRED, PLEDGED OR HYPOTHECATED WITHOUT REGISTRATION UNDER THE ACT UNLESS EITHER (i) THE COMPANY HAS RECEIVED AN OPINION OF COUNSEL, IN FORM AND SUBSTANCE REASONABLY SATISFACTORY TO THE COMPANY, TO THE EFFECT THAT REGISTRATION IS NOT REQUIRED IN CONNECTION WITH SUCH DISPOSITION OR (ii) THE SALE OF SUCH SECURITIES IS MADE PURSUANT TO SECURITIES AND EXCHANGE COMMISSION RULE 144."

7.3 ***Unlegended Shares***. Following completion of the Restriction Period, the Investor may request that the Company remove, and the Company agrees to authorize the removal of, any legend from such Shares, (i) in connection with any sale (which for the avoidance of doubt includes any planned sales within a reasonable period of time) of such Shares pursuant to Rule 144 (*provided that* any legend would only be removed in connection with the consummation of any such sale) or (ii) following the time a legend is no longer required with respect to such Shares. If a legend is no longer required pursuant to the foregoing, the Company will, no later than five (5) business days following the request by the Investor to the Company to remove such legends (along with such other documents as the Company or the Company's transfer agent may reasonably request, including an opinion of counsel), deliver or cause to be delivered to the Investor in book-entry form or a certificate representing such Shares that is free from all restrictive legends. Certificates for Shares free from all restrictive legends may be transmitted by the Company's transfer agent to the Investor as directed by the Investor. The Company warrants that the Shares shall otherwise be freely transferable on the books and records of the Company as and to the extent provided in this Agreement.

SECTION 8

Indemnification

8.1 Each Party (an "**Indemnifying Party**") hereby indemnifies and holds harmless the other Party, such other Party's respective officers, directors, employees, consultants, representatives and advisers, and any and all Affiliates (as defined in Section 6.1(a)) of the foregoing (each of the foregoing, an "**Indemnified Party**") from and against all losses, liabilities, costs, damages and expense (including reasonable legal fees and expenses) (collectively, "**Losses**") suffered or incurred by any such Indemnified Party to the extent arising from, connected with or related to (i) breach of any representation or warranty of such Indemnifying Party in this Agreement; and (ii) breach of any covenant or undertaking of any Indemnifying Party in this Agreement, except for such Losses determined in a final judgement by a court of competent jurisdiction to have arisen from the gross negligence or willful misconduct of the Indemnified Party or the Indemnified Party's breach of representation, warranty, covenant or undertaking under this Agreement. If an event or omission (including, without limitation, any claim asserted or action or proceeding commenced by a third party) occurs which an Indemnified Party asserts to be an indemnifiable event pursuant to this Section 8, the Indemnified Party will provide written notice to the Indemnifying Party, setting forth the nature of the claim and the basis for indemnification under this Agreement. The Indemnified Party will give such written notice to the Indemnifying Party immediately after it becomes aware of the existence of any such event or occurrence. Such notice will be a condition precedent to any obligation of the

Indemnifying Party to act under this Agreement but will not relieve it of its obligations under the indemnity except to the extent that the failure to provide prompt notice as provided in this Agreement actually prejudices the Indemnifying Party with respect to the transactions contemplated by this Agreement and to the defense of the liability. In case any such action is brought by a third party against any Indemnified Party and it notifies the Indemnifying Party of the commencement thereof, the Indemnifying Party will be entitled to participate therein and, to the extent that it wishes, to assume the defense and settlement thereof with counsel reasonably selected by it and, after notice from the Indemnifying Party to the Indemnified Party of such election so to assume the defense and settlement thereof, the Indemnifying Party will not be liable to the Indemnified Party for any legal expenses of other counsel or any other expenses subsequently incurred by such Indemnified Party in connection with the defense thereof; provided, however, that an Indemnified Party shall have the right to employ one separate counsel at the expense of the Indemnifying Party if (i) the employment thereof has been specifically authorized in writing by the Indemnifying Party; or (ii) representation of both parties by the same counsel would be inappropriate due to actual or potential conflicts of interests between such parties (which such judgment shall be made in good faith after consultation with counsel). The Indemnified Party agrees to cooperate fully with (and to provide all relevant documents and records and make all relevant personnel available to) the Indemnifying Party and its counsel, as reasonably requested, in the defense of any such asserted claim at no additional cost to the Indemnifying Party. No Indemnifying Party will consent to the entry of any judgment or enter into any settlement with respect to any such asserted claim without the prior written consent of the Indemnified Party, not to be unreasonably withheld or delayed, (a) if such judgment or settlement does not include as an unconditional term thereof the giving by each claimant or plaintiff to each Indemnified Party of a release from all liability in respect to such claim or (b) if, as a result of such consent or settlement, injunctive or other equitable relief would be imposed against the Indemnified Party or such judgment or settlement could materially and adversely affect the business, operations or assets of the Indemnified Party. No Indemnified Party will consent to the entry of any judgment or enter into any settlement with respect to any such asserted claim without the prior written consent of the Indemnifying Party, not to be unreasonably withheld or delayed. If an Indemnifying Party makes a payment with respect to any claim under the representations or warranties set forth herein and the Indemnified Party subsequently receives from a third party or under the terms of any insurance policy a sum in respect of the same claim, the receiving party will repay to the other party such amount that is equal to the sum subsequently received.

SECTION 9

Miscellaneous

9.1 ***Governing Law; Exclusive Jurisdiction; Venue***. This Agreement shall be governed in all respects by the laws of the State of New York without application of any provisions thereof that would require the application of the laws of any other jurisdiction. Each of the Parties irrevocably agrees that any legal action or proceeding with respect to this Agreement and the rights and obligations arising hereunder, or for recognition and enforcement of any judgment in respect of this Agreement and the rights and obligations arising hereunder brought by another Party or its successors or assigns, will be brought and determined exclusively in (i) the state courts of the State of New York in Manhattan, New York, or (ii) the United States District Court for the Southern District of New York. Each of the Parties hereby irrevocably submits with regard to any such action or proceeding for itself and in respect of its property, generally and unconditionally, to the personal jurisdiction of the aforesaid courts and agrees that it will not bring any action relating to this Agreement or any of the transactions contemplated by this Agreement in any court other than the aforesaid courts. Each of the Parties hereby irrevocably waives, and agrees not to assert as a defense, counterclaim or otherwise, in any action or proceeding with respect to this Agreement, (x) any claim that it is not personally subject to the jurisdiction of the above named courts for any reason other than the failure to serve in accordance with this Section 9.1, (y) any claim that it or its property is exempt or immune from the jurisdiction of any such court or from any legal process commenced in such courts (whether through service of notice, attachment prior to judgment, attachment in aid of execution of judgment, execution of judgment or otherwise) and (z) to the fullest extent permitted by applicable law, any claim that (1) the suit, action or proceeding in such court is brought in an inconvenient forum, (2) the venue of such suit, action or proceeding is improper or (3) this Agreement, or the subject matter hereof, may not be enforced in or by such courts. Each of the Parties agrees that service of process upon such Party in any such action or proceeding will be effective if such process is given as a notice in accordance with Section 9.5. EACH OF THE PARTIES HEREBY IRREVOCABLY WAIVES TO THE EXTENT PERMITTED BY APPLICABLE LAW ANY AND ALL RIGHT TO A TRIAL BY JURY IN ANY DIRECT OR INDIRECT ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY. EACH PARTY (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER, (B) MAKES THIS WAIVER VOLUNTARILY, AND (C) ACKNOWLEDGES THAT EACH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS CONTAINED IN THIS SECTION 9.1.

9.2 ***Amendment***. This Agreement shall not be amended, changed or modified, except by another agreement in writing executed by the Parties.

9.3 ***Survival***. The representations, warranties, covenants and agreements made herein shall survive any investigation made by the Investor and the Closing.

9.4 ***Successors, Assigns***. Except as otherwise provided herein, the provisions hereof shall inure to the benefit of, and be binding upon, the successors, assigns, heirs, executors and administrators of the parties hereto. This Agreement may not be assigned by either Party without the prior written consent of the other; except that either Party may assign this Agreement to an Affiliate (as defined in Section 6.1(a)) of such Party or to any third party that acquires all or substantially all of such party's business, whether by merger, sale of assets or otherwise. In case of an assignment by either Party to its Affiliate, such Affiliate must agree in writing that, in case such Affiliate ceases to be an Affiliate of the assigning Party, the Agreement, or in case of an assignment of rights or obligations, such assigned rights shall automatically be re-assigned and transfer back to such assigning Party, and that the parties to such assignment agreement will do all acts that are required to effectuate such reassignment and transfer back to such assigning Party. Any attempted assignment or delegation in violation of this Section 9.4 shall be void and of no effect. All validly assigned and delegated rights and obligations of the Parties hereunder shall be binding upon and inure to the benefit of and be enforceable by and against the successors and permitted assigns of the Company or the Investor, as the case may be. The permitted assignee or transferee shall assume all obligations of its assignor or transferor under this Agreement.

9.5 ***Notices***. All notices and other communications required or permitted hereunder shall be in writing and shall be sent by facsimile (receipt confirmed) or mailed by registered or certified mail, postage prepaid, return receipt requested, or otherwise delivered by hand or by messenger, addressed

if to the Investor, at the following address:

c/o RTW Investments, LP
40 10th Avenue, Floor 7
New York, NY 10014
Attention: Roderick Wong and Alice Lee
Telephone: [*]
Email: [*]

if to the Company, at the following address:

Cytokinetics, Incorporated
350 Oyster Point Boulevard
South San Francisco, CA 94080
Attention: General Counsel
Facsimile: [*]
Email: [*]

or at such other address as one Party shall have furnished to the other Party in writing. All notices and communications under this Agreement shall be deemed to have been duly given (i) when delivered by hand, if personally delivered, (ii) when received by a recipient, if sent by email, (iii) when sent, if sent by facsimile, with an acknowledgement of sending being produced by the sending facsimile machine or (iv) one Business Day following sending within the United States by overnight delivery via commercial one-day overnight courier service.

9.6 ***Expenses***. Each of the Company and the Investor shall bear its own expenses and legal fees incurred on its behalf with respect to this Agreement and the transactions contemplated hereby.

9.7 ***Finder's Fees***. Each of the Company and the Investor shall indemnify and hold the other harmless from any liability for any commission or compensation in the nature of a finder's fee, placement fee or underwriter's discount (including the costs, expenses and legal fees of defending against such liability) for which the Company or the Investor, or any of its respective partners, employees, or representatives, as the case may be, is responsible.

9.8 ***Counterparts***. This Agreement may be executed in counterparts, each of which shall be deemed to be an original and enforceable against the party actually executing the counterpart, and all of which together shall constitute one and the same instrument. This Agreement may be executed by electronically transmitted signatures (including, without limitation, through the use of eSignature platforms such as DocuSign®) and such signatures shall be deemed to bind each Party hereto as if they were original signatures; and that this Agreement, or any part thereof, shall not be challenged or denied any legal effect, validity and/or enforceability solely on the ground that it is executed by electronically transmitted signatures.

9.9 ***Severability***. In the event that any provision of this Agreement becomes or is declared by a court of competent jurisdiction to be illegal, unenforceable or void, this Agreement shall continue in full force and effect without said provision; provided that no such severability shall be effective if it materially changes the economic benefit of this Agreement to any party.

9.10 ***Entire Agreement***. This Agreement and the other Transaction Agreements, including the exhibits and schedule attached hereto and thereto, constitute the full and entire understanding and agreement among the parties with regard to the subjects hereof and thereof. No party shall be liable or bound to any other party in any manner with regard to the subjects hereof or thereof by any warranties, representations or covenants except as specifically set forth herein or therein.

9.11 ***Specific Performance***. The Parties agree that irreparable damage would occur in the event any provision of this Agreement were not performed in accordance with the terms hereof and that the Parties shall be entitled to specific performance of the terms hereof, in addition to any other remedy at law or equity.

9.12 ***Headings***. The headings of the various articles and sections of this Agreement are inserted merely for the purpose of convenience and do not expressly or by implication limit, define or extend the specific terms of the section so designated.

9.13 ***Waiver***. The failure of either party to assert a right hereunder or to insist upon compliance with any term or condition of this Agreement shall not constitute a waiver of that right or excuse a similar subsequent failure to perform any such term or condition by the other party. None of the terms, covenants and conditions of this Agreement can be waived except by the written consent of the party waiving compliance.

[*Remainder of page left intentionally blank.*]

IN WITNESS WHEREOF, the Parties have executed this Common Stock Purchase Agreement as of the date first set forth above.

CYTOKINETICS, INCORPORATED		**RTW INNOVATION MASTER FUND, LTD.**	
By:	/s/ Robert I. Blum	By:	/s/ Roderick Wong
Name:	Robert I. Blum	Name:	Roderick Wong, M.D.
Title:	President and CEO	Title:	Director

Schedule A

The Investor is an institutional “accredited investor” as defined in Rule 501(a) of Regulation D of the Securities Act.

Schedule B

Schedule of Exceptions

None

[*] – CERTAIN INFORMATION IN THIS DOCUMENT HAS BEEN EXCLUDED PURSUANT TO REGULATION S-K, ITEM 601(B)(10). SUCH EXCLUDED INFORMATION IS NOT MATERIAL AND WOULD LIKELY CAUSE COMPETITIVE HARM TO THE REGISTRANT IF PUBLICLY DISCLOSED.

CYTOKINETICS, INCORPORATED

COMMON STOCK PURCHASE AGREEMENT

THIS COMMON STOCK PURCHASE AGREEMENT (the "**Agreement**") is made as of December 20, 2021 (the "**Closing Date**") by and between Cytokinetics, Incorporated, a Delaware corporation (the "**Company**"), and RTW Venture Fund Limited, with a business address located at [*] (the "**Investor**", and together with the Company, collectively, the "**Parties**" and individually, a "**Party**").

RECITALS

WHEREAS, the Company and Ji Xing Pharmaceuticals Limited ("**Ji Xing**"), an Affiliate (as defined below) of the Investor, have entered into that certain License and Collaboration Agreement (the "**License Agreement**"), and the Company and each of RTW Master Fund, Ltd. and RTW Innovation Master Fund, Ltd. have entered into common stock purchase agreements on substantially the same terms (other than price and share quantity) as this Agreement (each of the foregoing, together with the License Agreement, collectively, the "**Transaction Agreements**"), each of even date herewith;

WHEREAS, to induce the Company to grant certain rights under the License Agreement to Ji Xing, the Investor and its affiliates have collectively undertaken to purchase from the Company an aggregate of $20,000,000 of the Company's common stock, par value $0.001 per share (the "**Common Stock**") upon the terms and subject to the conditions set forth in this Agreement (and with respect to the Investor's affiliates purchasing the Common Stock concurrently with the Investor, separate common stock purchase agreements in the same form and substance as this Agreement);

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

SECTION 1

Purchase and Sale of Shares

1.1 ***Sale of Shares***. Subject to the terms and conditions hereof, the Company will issue and sell to the Investor, and the Investor will purchase from the Company, at the Closing, 51,989 shares of common stock of the Company (hereafter referred to as the "**Shares**"), free and clear of all liens or encumbrances, in consideration of a cash payment of two million thirty-four thousand sixty-nine dollars and sixty-three cents ($2,034,069.63) (the "**Aggregate Purchase Price**").

1.2 ***Closing***. The purchase and sale of the Shares shall take place at a closing (the "**Closing**") to be held at the offices of Cooley LLP, 3175 Hanover Street, Palo Alto, California 94304-1130, on the Closing Date. At the Closing, the Company will deliver or cause to be delivered to the Investor in book entry form a certificate or certificates representing the Shares that the Investor is purchasing and, concurrently, the Investor shall pay the Aggregate Purchase Price by (a) check payable to the Company, (b) wire transfer in accordance with the Company's instructions, or (c) any combination of the foregoing.

1.3 ***Tax Treatment***. For U.S. federal income and other applicable tax purposes, the Investor and the Company agree to treat the issuance and sale of the Shares by the Company, and the purchase of the Shares by the Investor, in accordance with the terms hereof as separate and independent from any transactions entered into by the Company and the Investor or its Affiliates, other than those contemplated by this Agreement, and to report the transactions contemplated by this Agreement on U.S. federal income tax and other applicable tax returns in accordance with this Section 1.3 unless otherwise required by applicable law.

SECTION 2

Representations and Warranties of the Company

Except as set forth on the Schedule of Exceptions attached hereto as Schedule B, the Company hereby represents and warrants the following as of the Closing Date:

2.1 ***Organization and Good Standing and Qualifications***. The Company is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and has all requisite power and authority to own, lease, operate and occupy its properties and to carry on its business as now being conducted. Except as set forth in the Commission Documents (as defined below), the Company does not own more than 50% of the outstanding capital stock of or control any other business entity. The Company is duly qualified as a foreign corporation to do business and is in good standing in every jurisdiction in which the nature of the business conducted or property owned or leased by it makes such qualification necessary, other than those in which the failure so to qualify or be in good standing would not have a Material Adverse Effect. For purposes of this Agreement, "**Material Adverse Effect**" shall mean any event or condition that would reasonably be likely to have a material adverse effect on the business, operations, properties or financial condition of the Company and its consolidated subsidiaries, taken as a whole; provided that none of the following shall constitute a "Material Adverse Effect": the effects of conditions or events that are generally applicable to the capital, financial, banking or currency markets and the biotechnology industry, and changes in the market price of the Common Stock.

2.2 ***Authorization***. (i) The Company has the requisite corporate power and authority to enter into and perform its obligations under this Agreement; (ii) the execution and delivery of this Agreement by the Company, the consummation by the Company of the transactions contemplated hereby and thereby and the issuance, sale and delivery of the Shares have been duly authorized by all necessary corporate action and no further consent or authorization of the Company or its Board of Directors or stockholders is required; and (iii) this Agreement has been duly executed and delivered and constitutes a valid and binding obligation of the Company enforceable against the Company in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, securities, insolvency, or similar laws relating to, or affecting generally the enforcement of, creditors' rights and remedies, or indemnification or by other equitable principles of general application.

2.3 ***Valid Issuance of Shares***. The issuance of the Shares has been duly authorized by all requisite corporate action. When the Shares are issued, sold and delivered in accordance with the terms of this Agreement for the consideration expressed herein, the Shares will be duly and validly issued and outstanding, fully paid, and nonassessable, rank pari passu in all respects with the other issued shares and free and clear of any pledge, mortgage, security interest, encumbrance, lien, charge, assessment, right of first refusal, right of pre-emption, third party right or interest, claim or restriction of any kind or nature, and will be free of restrictions on transfer other than restrictions on transfer under this Agreement and under applicable state and federal securities laws and, except as otherwise set forth herein, the Investor shall be entitled to all rights accorded to a holder of shares of Common Stock. The Company has reserved a sufficient number of shares of Common Stock for issuance to the Investor in accordance with the Company's obligations under this Agreement.

2.4 ***No Conflict***. The execution, delivery and performance of this Agreement, and any other document or instrument contemplated hereby, by the Company and the consummation by the Company of the transactions contemplated hereby, do not: (i) violate any provision of the Certificate or Bylaws, (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 material agreement, mortgage, deed of trust, indenture, note, bond, license, lease agreement, instrument or obligation to which the Company is a party where such default or conflict would constitute a Material Adverse Effect, (iii) create or impose a lien, charge or encumbrance on any property of the Company under any agreement or any commitment to which the Company is a party or by which the Company is bound, which would constitute a Material Adverse Effect, (iv) result in a violation of any federal, state, local or foreign statute, rule, regulation, order, writ, judgment or decree (including federal and state securities laws and regulations) applicable to the Company or any of its subsidiaries or by which any property or asset of the Company are bound or affected where such violation would constitute a Material Adverse Effect, or (v) require any consent of any third party that has not been obtained pursuant to any material contract to which the Company is subject or to which any of its assets, operations or management may be subject where the failure to obtain any such consent would constitute a Material Adverse Effect. The Company is not required under federal, state or local law, rule or regulation to obtain any consent, authorization or order of, or make any filing or registration with, any court or governmental agency in order for it to execute, deliver or perform any of its obligations under this Agreement or issue and sell the Shares in accordance with the terms hereof (other than any filings that may be required to be made by the Company with the Securities and Exchange Commission (the "**Commission**"), Financial Industry Regulatory Authority, The Nasdaq Stock Market LLC or state securities commissions subsequent to the Closing); provided that, for purposes of the representation made in this sentence, the Company is assuming and relying upon the accuracy of the relevant representations and agreements of the Investor herein.

2.5 ***Compliance***. The Company is not, and the execution and delivery of this Agreement and the consummation of the transactions contemplated herewith will not cause the Company to be, (i) in material violation or default of any provision of any instrument, mortgage, deed of trust, loan, contract, or commitment filed with the Commission Documents, (ii) in violation of any provision of any judgment, decree, order or obligation to which it is a party or by which it or any of its properties or assets are bound, or (iii) in violation of any federal, state or, to its knowledge, local statute, rule or governmental regulation, in the case of each of clauses (ii) and (iii), which would have a Material Adverse Effect.

2.6 ***Capitalization***. As of November 1, 2021 (the "**Reference Date**"), a total of 83,882,953 shares of Common Stock were issued and outstanding, increased as set forth in the next sentence. Other than in the ordinary course of business, the Company has not issued any capital stock since the Reference Date other than pursuant to (i) employee benefit plans disclosed in the Commission Documents, (ii) grants to directors, officers and employees in the ordinary course and consistent with past practice or as otherwise disclosed in the Commission Documents (including any Form 4 filings by the relevant grantee) and (iii) outstanding warrants, options or other securities disclosed in the Commission Documents. The outstanding shares of capital stock of the Company have been duly and validly issued and are fully paid and nonassessable, were not issued in violation of any preemptive rights or similar rights to subscribe for or purchase securities, and in material compliance with all federal and state securities laws. Except as set forth in the Commission Documents, there are no outstanding rights (including, without limitation, preemptive rights), warrants or options to acquire, or instruments convertible into or exchangeable for, any unissued shares of capital stock or other equity interest in the Company, or any contract, commitment, agreement, understanding or arrangement of any kind to which the Company is a party and relating to the issuance or sale of any capital stock of the Company, any such convertible or exchangeable securities or any such rights, warrants or options. Without limiting the foregoing, no preemptive right, co-sale right, right of first refusal, registration right, or other similar right exists with respect to the Shares or the issuance and sale thereof. Except as disclosed in the Commission Documents, there are no shareholder agreements, voting agreements or other similar agreements with respect to the voting of the Shares to which the Company is a party or, to the knowledge of the Company, between or among any of the Company's shareholders.

2.7 ***Commission Documents, Financial Statements***. The Company's Common Stock is registered pursuant to Section 12(b) or 12(g) of the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"), and during the past twelve (12) months the Company has timely filed all reports, schedules, forms, statements and other documents required to be filed by it with the Commission pursuant to the reporting requirements of the Exchange Act, including material filed pursuant to Section 13(a) or 15(d) of the Exchange Act (all of the foregoing, including filings incorporated by reference therein, being referred to herein as the "**Commission Documents**"). The Company's Common Stock is currently listed or quoted on the Nasdaq Global Select Market. The Company is not in violation of the listing requirements of the Nasdaq Global Select Market and has no knowledge of any facts that would reasonably lead to delisting or suspension of its common stock from The Nasdaq Stock Market LLC in the foreseeable future. Each Commission Document filed within the past twelve (12) months complied in all material respects with the requirements of the Exchange Act and the rules and regulations of the Commission promulgated thereunder applicable to such document, and, as of its date, after giving effect to the information disclosed and incorporated by reference therein, no such Commission Document filed within the past twelve (12) months contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. As of their respective dates, to the Company's knowledge, the financial statements of the Company included in the Commission Documents filed with the Commission during the past twelve months complied as to form and substance in all material respects with applicable accounting requirements and the published rules and regulations of the Commission or other applicable rules and regulations with respect thereto. Such financial statements have been prepared in accordance with generally accepted accounting principles ("**GAAP**") applied on a consistent basis during the periods involved (except (i) as may be otherwise indicated in such financial statements or the notes thereto or (ii) in the case of unaudited interim statements, to the extent they may not include footnotes or may be condensed or summary statements), and fairly present in all material respects the financial position of the Company as of the dates thereof and the results of operations and cash flows for the periods then ended (subject, in the case of unaudited statements, to normal year-end audit adjustments).

2.8 ***Internal Controls and Procedures.*** The Company maintains disclosure controls and procedures as such terms are defined in, and required by, Rule 13a-15 and Rule 15d-15 under the Exchange Act. Such disclosure controls and procedures are effective as of the latest date of management's evaluation of such disclosure controls and procedures as set forth in the Commission Documents to ensure that all material information required to be disclosed by the Company in the reports that it files or furnishes under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the rules and forms of the Commission. The Company maintains a system of internal controls over financial reporting sufficient to provide reasonable assurance that (i) transactions are executed in accordance with management's general or specific authorizations; and (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP.

2.9 ***No Undisclosed Liabilities***. To the Company's knowledge, neither the Company nor any of its subsidiaries has any liabilities, obligations, claims or losses (whether liquidated or unliquidated, secured or unsecured, absolute, accrued, contingent or otherwise) that would be required to be disclosed on a balance sheet of the Company or any of its subsidiaries (including the notes thereto) in conformity with GAAP and are not disclosed in the Commission Documents, other than those incurred in the ordinary course of the Company's business since November 1, 2021 or which, individually or in the aggregate, do not or would not have a Material Adverse Effect on the Company.

2.10 ***No Undisclosed Events or Circumstances***. Except for the transactions contemplated by this Agreement and the other Transaction Agreements, no event or circumstance has occurred or exists with respect to the Company, its subsidiaries, or their respective businesses, properties, operations or financial condition, which, under applicable law, rule or regulation, requires public disclosure or announcement by the Company but which has not been so publicly announced or disclosed and which, individually or in the aggregate, would have a Material Adverse Effect on the Company.

2.11 ***Actions Pending***. There is no action, suit, claim, investigation or proceeding pending or, to the knowledge of the Company, threatened against the Company or any subsidiary which questions the validity of this Agreement or the transactions contemplated hereby or any action taken or to be taken pursuant hereto. Except as set forth in the Commission Documents or as previously disclosed in writing to the Investor, there is no action, suit, claim, investigation or proceeding pending or, to the knowledge of the Company, threatened, against or involving the Company, any subsidiary, or any of their respective properties or assets that could be reasonably expected to have a Material Adverse Effect on the Company. Except as set forth in the Commission Documents or as previously disclosed to the Investor in writing, no judgment, order, writ, injunction or decree or award has been issued by or, to the knowledge of the Company, requested of any court, arbitrator or governmental agency which could be reasonably expected to result in a Material Adverse Effect.

2.12 ***Compliance with Law***. The businesses of the Company and its subsidiaries have been and are presently being conducted in accordance with all applicable federal, state and local governmental laws, rules, regulations and ordinances, except as set forth in the Commission Documents or such that would not reasonably be expected to cause a Material Adverse Effect. Except as set forth in the Commission Documents, the Company and each of its subsidiaries have all franchises, permits, licenses, consents and other governmental or regulatory authorizations and approvals necessary for the conduct of its business as now being conducted by it, except for such franchises, permits, licenses, consents and other governmental or regulatory authorizations and approvals, the failure to possess which, individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect.

2.13 ***Exemption from Registration, Valid Issuance***. Subject to, and in reliance on, the representations, warranties and covenants made herein by the Investor, the issuance and sale of the Shares in accordance with the terms and on the bases of the representations and warranties set forth in this Agreement, may and shall be properly issued pursuant to Section 4(a)(2) of the Securities Act of 1933, as amended (the "**Securities Act**"), Regulation D promulgated pursuant to the Securities Act ("**Regulation D**") and/or any other applicable federal and state securities laws. The sale and issuance of the Shares pursuant to, and the Company's performance of its obligations under, this Agreement will not (i) result in the creation or imposition of any liens, charges, claims or other encumbrances upon the Shares or any of the assets of the Company, or (ii) entitle the holders of any outstanding shares of capital stock of the Company to preemptive or other rights to subscribe to or acquire the Shares or other securities of the Company.

2.14 ***Transfer Taxes***. All stock transfer or other taxes (other than income taxes) which are required to be paid in connection with the sale and transfer of the Shares to be sold to Investor 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 fully complied with.

2.15 ***Investment Company***. The Company is not and, after giving effect to the offering and sale of the Shares, will not be an "investment company" as defined in the Investment Company Act of 1940, as amended.

2.16 ***Brokers***. Except as expressly set forth in this Agreement or the other Transaction Agreements, no brokers, finders or financial advisory fees or commissions will be payable by the Company or any of its subsidiaries in respect of the transactions contemplated by this Agreement or the other Transaction Agreements.

SECTION 3

Representations and Warranties of the Investor

The Investor hereby represents and warrants the following as of the Closing Date:

3.1 ***Experience***. The Investor is experienced in evaluating companies such as the Company, has such knowledge and experience in financial and business matters that the Investor is capable of evaluating the merits and risks of the Investor's prospective investment in the Company, and has the ability to bear the economic risks of the investment.

3.2 ***Investment***. The Investor is acquiring the Shares for investment for the Investor's own account and not with the view to, or for resale in connection with, any distribution thereof. The Investor understands that the Shares have not been and will not be registered under the Securities Act by reason of a specific exemption from the registration provisions of the Securities Act which depends upon, among other things, the bona fide nature of the investment intent as expressed herein. The Investor acknowledges and agrees that the Shares purchased by the Investor, until disposition of such Shares in accordance with the provisions of this Agreement, shall remain at all times within the Investor's control. The Investor further represents that it does not have any contract, undertaking, agreement or arrangement with any person to sell, transfer or grant participation to any third person with respect to any of the Shares.

3.3 ***Rule 144***. The Investor acknowledges that the Shares must be held indefinitely unless subsequently registered under the Securities Act or an exemption from such registration is available. The Investor is aware of the provisions of Rule 144 promulgated under the Securities Act which permit limited resale of shares purchased in a private placement subject to the satisfaction of certain conditions. In connection therewith, the Investor acknowledges that the Company will make a notation on its stock books regarding the restrictions on transfers set forth in this Section 3 and will transfer the Shares on the books of the Company only to the extent not inconsistent therewith.

3.4 ***Access to Information***. The Investor has received and reviewed information about the Company and has had an opportunity to discuss the Company's business, management and financial affairs with its management and to review the Company's facilities. The Investor has had a full opportunity to ask questions of and receive answers from the Company, or any person or persons acting on behalf of the Company, concerning the terms and conditions of an investment in the Shares. The Investor is not relying upon, and has not relied upon, any statement, representation or warranty made by any person, except for the statements, representations and warranties made by the Company or in respect of the Company contained in this Agreement and the other Transaction Agreements.

3.5 ***Authorization***. This Agreement when executed and delivered by the Investor will constitute a valid and legally binding obligation of the Investor, enforceable in accordance with its terms, subject to: (i) judicial principles respecting election of remedies or limiting the availability of specific performance, injunctive relief, and other equitable remedies; and (ii) bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereafter in effect generally relating to or affecting creditors' rights.

3.6 ***Investor Status***. The Investor acknowledges that it is either (i) an institutional "accredited investor" as defined in Rule 501(a) of Regulation D of the Securities Act (an "**Institutional Accredited Investor**") or (ii) a "qualified institutional buyer" as defined in Rule 144A of the Securities Act, as indicated on Schedule A hereto, and the Investor shall submit to the Company such further assurances of such status as may be reasonably requested by the Company.

3.7 ***No Inducement***. The Investor was not induced to participate in the offer and sale of the Shares by the filing of any registration statement in connection with any public offering of the Company's securities, and the Investor's decision to purchase the Shares hereunder was not influenced by the information contained in any such registration statement.

SECTION 4

Conditions to Investor's Obligations at Closing

The obligations of the Investor under this Agreement are subject to the fulfillment on or before the Closing of each of the following conditions, any of which may be waived in writing by the Investor (except to the extent not permitted by law):

4.1 ***No Injunction, etc***. No preliminary or permanent injunction or other binding order, decree or ruling issued by a court or governmental agency shall be in effect which shall have the effect of preventing the consummation of the transactions contemplated by this Agreement. No action or claim shall be pending before any court or quasi-judicial or administrative agency of any federal, state, local or foreign jurisdiction or before any arbitrator wherein an unfavorable injunction, judgment, order, decree, ruling or charge would be reasonably likely to (i) prevent consummation of any of the transactions contemplated by this Agreement, (ii) cause any of the transactions contemplated by this Agreement to be rescinded following consummation or (iii) have the effect of making illegal the purchase of, or payment for, any of the Shares by the Investor.

4.2 ***Representations and Warranties***. The representations and warranties of the Company contained in Section 2 shall have been true and correct in all material respects (except for such representations and warranties that are qualified by materiality which shall be true and correct in all respects) on and as of the Closing Date with the same effect as though such representations and warranties had been made on and as of such date.

4.3 ***Performance***. The Company shall have performed and complied with all covenants, agreements, obligations and conditions contained in this Agreement that are required to be performed or complied with by it on or before the Closing Date.

4.4 ***Compliance Certificate***. A duly authorized officer of the Company shall deliver to the Investor at the Closing a certificate stating that the conditions specified in Sections 4.2 and 4.3 have been fulfilled and certifying and attaching the Company's Certificate of Incorporation, Bylaws and authorizing Board of Directors resolutions with respect to this Agreement, the other Transaction Agreements and the transactions contemplated hereby and thereby.

4.5 ***Securities Laws***. The offer and sale of the Shares to the Investor pursuant to this Agreement shall be exempt from the registration requirements of the Securities Act and the registration and/or qualification requirements of all applicable state securities laws.

4.6 ***Transaction Agreements.*** The Company shall have delivered to the Investor the duly executed Transaction Agreements.

4.7 ***Authorizations***. All authorizations, approvals or permits, if any, of any governmental authority or regulatory body that are required in connection with the lawful issuance and sale of the Shares pursuant to this Agreement shall have been duly obtained and shall be effective on and as of the Closing.

SECTION 5

Conditions to the Company's Obligations at Closing

The obligations of the Company to the Investor under this Agreement are subject to the fulfillment on or before the Closing of each of the following conditions by the Investor:

5.1 ***Representations and Warranties***. The representations and warranties of the Investor contained in Section 3 shall be true and correct in all material respects (except for such representations and warranties that are qualified by materiality which shall be true and correct in all respects) on and as of the Closing with the same effect as though such representations and warranties had been made on and as of the Closing.

5.2 ***Securities Law Compliance***. The offer and sale of the Shares to the Investor pursuant to this Agreement shall be exempt from the registration requirements of the Securities Act and the registration and/or qualification requirements of all applicable state securities laws.

5.3 ***Transaction Agreements.*** The Investor shall have delivered to the Company the duly executed Transaction Agreements.

5.4 ***Authorization***. All authorizations, approvals or permits, if any, of any governmental authority or regulatory body that are required in connection with the lawful issuance and sale of the Shares pursuant to this Agreement shall have been duly obtained and shall be effective on and as of the Closing.

SECTION 6

Investor Covenants

6.1 ***Trading Restrictions***.

(a) Definitions.

(i) "**Affiliate**" shall have the meaning set forth in Rule 12b-2 of the regulations promulgated under the Securities Exchange Act of 1934, as amended.

(ii) "**Restriction Period**" shall mean the period commencing on the Closing Date and continuing until the date that is one (1) year from such date.

(iii) "**Significant Event**" shall mean any of the following not involving a violation of this Section 6: (A) the public announcement of a proposal or intention to acquire, or the acquisition, by any person or 13D Group of beneficial ownership of Voting Securities representing 15% or more of the then outstanding Voting Securities; (B) the public announcement of a proposal or intention to commence, or the commencement, by any person or 13D Group of a tender or exchange offer to acquire Voting Securities which, if successful, would result in such person or 13D Group owning, when combined with any other Voting Securities owned by such person or 13D Group, 15% or more of the then outstanding Voting Securities; or (C) the entry into by the Company, or the public announcement by the Company of an intention or determination to enter into, any merger, sale or other business combination transaction, or an agreement therefor, pursuant to which the outstanding shares of capital stock of the Company would be converted into cash, other consideration or securities of another person or 13D Group or 50% or more of the then outstanding shares of capital stock of the Company would be owned by persons other than the then current holders of shares of capital stock of the Company, or which would result in all or a substantial portion of the Company's assets being sold to any person or 13D Group.

(iv) "**Voting Securities**" shall mean at any time shares of any class of capital stock of the Company which are then entitled to vote generally in the election of directors.

(v) "**13D Group**" shall mean, with respect to the Voting Securities of the Company, any group of persons formed for the purpose of acquiring, holding, voting or disposing of such Voting Securities which would be required under Section 13(d) of the Exchange Act and the rules and regulations thereunder to file a statement on Schedule 13D with the Commission as a "person" within the meaning of Section 13(d)(3) of the Exchange Act if such group beneficially owned Voting Securities representing more than 5% of the total combined voting power of all such Voting Securities then outstanding.

(b) Restriction Period No Sell. The Investor agrees that, except as provided below and as otherwise expressly permitted under this Agreement, during the Restriction Period, neither the Investor nor any of its Affiliates shall offer, sell, contract to sell, pledge, grant any option to purchase, make any short sale or otherwise dispose of in any manner, either directly or indirectly ("**Sale**" or "**Sell**"), any Shares, or any securities of the Company issued as a dividend or distribution on, or involving a recapitalization or reorganization with respect to, such Shares (collectively, "**Covenant Shares**"), other than transfers of securities between and among the Investor and any one or more of its Affiliates. The Company shall use commercially reasonable efforts to permit the Covenant Shares to be eligible for clearance and settlement through the facilities of The Depository Trust Company immediately following the termination of the Restriction Period.

(c) [*]

(d) Notwithstanding anything else contained in this Section 6.1, (x), the Investor and its Affiliates may at any time sell [*].

(e) Occurrence of Significant Event. The restrictions contained in Sections 6.1(b) and (c) shall be suspended and shall not apply to or otherwise restrict the Investor's actions in respect of the Company's securities for so long as a Significant Event has occurred and is continuing.

6.2 ***Invalid Transfers***. Any sale, assignment or other transfer of Covenant Shares by the Investor or any of its Affiliates, as applicable, contrary to the provisions of this Section 6 shall be null and void, and the transferee shall not be recognized by the Company as the holder or owner of the Covenant Shares sold, assigned, or transferred for any purpose (including, without limitation, voting or dividend rights), unless and until the Investor or such Affiliate, as applicable, has satisfied the requirements of this Section 6 with respect to such sale. The Investor shall provide the Company with written evidence that such requirements have been met or waived, prior to it or its Affiliates consummating any sale, assignment or other transfer of securities, and no Covenant Shares shall be transferred on the books of the Company until such written evidence has been received by the Company from the Investor. The Company, or, at the instruction of the Company, the transfer agent of the Company, may place a legend on any certificate representing Covenant Shares stating that such shares are subject to the restrictions contained in this Agreement. Upon delivery by the Investor of the written evidence required above, the Company agrees to facilitate the timely preparation and delivery (but in no event longer than five (5) business days) of certificates representing the Covenant Shares to be sold by the Investor or any Affiliate free of any restrictive legends and in such denominations and registered in such names as the Investor or such Affiliate may request in connection with such sale.

6.3 ***Performance by Affiliates.*** The Investor shall remain responsible for and guarantee its Affiliates' performance in connection with this Agreement, and shall cause each such Affiliate to comply fully with the provisions of this Agreement in connection with such performance.

SECTION 7

Restricted Securities

7.1 ***Rule 144 Reporting***. With a view to making available to the Investor the benefits of certain rules and regulations of the Commission which may permit the sale of the Shares to the public without registration, the Company agrees that, as from the Closing Date until such date falling three hundred sixty-five (365) days thereafter, it shall use commercially reasonable efforts to:

(a) Make and keep public information available, as those terms are understood and defined in Rule 144 promulgated under the Securities Act;

(b) File with the Commission in a timely manner all reports and other documents required of the Company under the Exchange Act; and

(c) Furnish the Investor forthwith upon request (i) a written statement by the Company as to its compliance with the public information requirements of said Rule 144, (ii) a copy of the most recent annual or quarterly report of the Company, and (iii) such other reports and documents as may be reasonably requested in availing the Investor of any rule or regulation of the Commission permitting the sale of any such securities without registration.

7.2 ***Restrictive Legend***. The certificates representing the Shares, when issued, will bear a restrictive legend in substantially the following form:

"THE SECURITIES EVIDENCED OR CONSTITUTED HEREBY HAVE BEEN ISSUED WITHOUT REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"), AND MAY NOT BE SOLD, OFFERED FOR SALE, TRANSFERRED, PLEDGED OR HYPOTHECATED WITHOUT REGISTRATION UNDER THE ACT UNLESS EITHER (i) THE COMPANY HAS RECEIVED AN OPINION OF COUNSEL, IN FORM AND SUBSTANCE REASONABLY SATISFACTORY TO THE COMPANY, TO THE EFFECT THAT REGISTRATION IS NOT REQUIRED IN CONNECTION WITH SUCH DISPOSITION OR (ii) THE SALE OF SUCH SECURITIES IS MADE PURSUANT TO SECURITIES AND EXCHANGE COMMISSION RULE 144."

7.3 ***Unlegended Shares***. Following completion of the Restriction Period, the Investor may request that the Company remove, and the Company agrees to authorize the removal of, any legend from such Shares, (i) in connection with any sale (which for the avoidance of doubt includes any planned sales within a reasonable period of time) of such Shares pursuant to Rule 144 (*provided that* any legend would only be removed in connection with the consummation of any such sale) or (ii) following the time a legend is no longer required with respect to such Shares. If a legend is no longer required pursuant to the foregoing, the Company will, no later than five (5) business days following the request by the Investor to the Company to remove such legends (along with such other documents as the Company or the Company's transfer agent may reasonably request, including an opinion of counsel), deliver or cause to be delivered to the Investor in book-entry form or a certificate representing such Shares that is free from all restrictive legends. Certificates for Shares free from all restrictive legends may be transmitted by the Company's transfer agent to the Investor as directed by the Investor. The Company warrants that the Shares shall otherwise be freely transferable on the books and records of the Company as and to the extent provided in this Agreement.

SECTION 8

Indemnification

8.1 Each Party (an "**Indemnifying Party**") hereby indemnifies and holds harmless the other Party, such other Party's respective officers, directors, employees, consultants, representatives and advisers, and any and all Affiliates (as defined in Section 6.1(a)) of the foregoing (each of the foregoing, an "**Indemnified Party**") from and against all losses, liabilities, costs, damages and expense (including reasonable legal fees and expenses) (collectively, "**Losses**") suffered or incurred by any such Indemnified Party to the extent arising from, connected with or related to (i) breach of any representation or warranty of such Indemnifying Party in this Agreement; and (ii) breach of any covenant or undertaking of any Indemnifying Party in this Agreement, except for such Losses determined in a final judgement by a court of competent jurisdiction to have arisen from the gross negligence or willful misconduct of the Indemnified Party or the Indemnified Party's breach of representation, warranty, covenant or undertaking under this Agreement. If an event or omission (including, without limitation, any claim asserted or action or proceeding commenced by a third party) occurs which an Indemnified Party asserts to be an indemnifiable event pursuant to this Section 8, the Indemnified Party will provide written notice to the Indemnifying Party, setting forth the nature of the claim and the basis for indemnification under this Agreement. The Indemnified Party will give such

written notice to the Indemnifying Party immediately after it becomes aware of the existence of any such event or occurrence. Such notice will be a condition precedent to any obligation of the Indemnifying Party to act under this Agreement but will not relieve it of its obligations under the indemnity except to the extent that the failure to provide prompt notice as provided in this Agreement actually prejudices the Indemnifying Party with respect to the transactions contemplated by this Agreement and to the defense of the liability. In case any such action is brought by a third party against any Indemnified Party and it notifies the Indemnifying Party of the commencement thereof, the Indemnifying Party will be entitled to participate therein and, to the extent that it wishes, to assume the defense and settlement thereof with counsel reasonably selected by it and, after notice from the Indemnifying Party to the Indemnified Party of such election so to assume the defense and settlement thereof, the Indemnifying Party will not be liable to the Indemnified Party for any legal expenses of other counsel or any other expenses subsequently incurred by such Indemnified Party in connection with the defense thereof; provided, however, that an Indemnified Party shall have the right to employ one separate counsel at the expense of the Indemnifying Party if (i) the employment thereof has been specifically authorized in writing by the Indemnifying Party; or (ii) representation of both parties by the same counsel would be inappropriate due to actual or potential conflicts of interests between such parties (which such judgment shall be made in good faith after consultation with counsel). The Indemnified Party agrees to cooperate fully with (and to provide all relevant documents and records and make all relevant personnel available to) the Indemnifying Party and its counsel, as reasonably requested, in the defense of any such asserted claim at no additional cost to the Indemnifying Party. No Indemnifying Party will consent to the entry of any judgment or enter into any settlement with respect to any such asserted claim without the prior written consent of the Indemnified Party, not to be unreasonably withheld or delayed, (a) if such judgment or settlement does not include as an unconditional term thereof the giving by each claimant or plaintiff to each Indemnified Party of a release from all liability in respect to such claim or (b) if, as a result of such consent or settlement, injunctive or other equitable relief would be imposed against the Indemnified Party or such judgment or settlement could materially and adversely affect the business, operations or assets of the Indemnified Party. No Indemnified Party will consent to the entry of any judgment or enter into any settlement with respect to any such asserted claim without the prior written consent of the Indemnifying Party, not to be unreasonably withheld or delayed. If an Indemnifying Party makes a payment with respect to any claim under the representations or warranties set forth herein and the Indemnified Party subsequently receives from a third party or under the terms of any insurance policy a sum in respect of the same claim, the receiving party will repay to the other party such amount that is equal to the sum subsequently received.

SECTION 9

Miscellaneous

9.1 ***Governing Law; Exclusive Jurisdiction; Venue***. This Agreement shall be governed in all respects by the laws of the State of New York without application of any provisions thereof that would require the application of the laws of any other jurisdiction. Each of the Parties irrevocably agrees that any legal action or proceeding with respect to this Agreement and the rights and obligations arising hereunder, or for recognition and enforcement of any judgment in respect of this Agreement and the rights and obligations arising hereunder brought by another Party or its successors or assigns, will be brought and determined exclusively in (i) the state courts of the State of New York in Manhattan, New York, or (ii) the United States District Court for the Southern District of New York.

Each of the Parties hereby irrevocably submits with regard to any such action or proceeding for itself and in respect of its property, generally and unconditionally, to the personal jurisdiction of the aforesaid courts and agrees that it will not bring any action relating to this Agreement or any of the transactions contemplated by this Agreement in any court other than the aforesaid courts. Each of the Parties hereby irrevocably waives, and agrees not to assert as a defense, counterclaim or otherwise, in any action or proceeding with respect to this Agreement, (x) any claim that it is not personally subject to the jurisdiction of the above named courts for any reason other than the failure to serve in accordance with this Section 9.1, (y) any claim that it or its property is exempt or immune from the jurisdiction of any such court or from any legal process commenced in such courts (whether through service of notice, attachment prior to judgment, attachment in aid of execution of judgment, execution of judgment or otherwise) and (z) to the fullest extent permitted by applicable law, any claim that (1) the suit, action or proceeding in such court is brought in an inconvenient forum, (2) the venue of such suit, action or proceeding is improper or (3) this Agreement, or the subject matter hereof, may not be enforced in or by such courts. Each of the Parties agrees that service of process upon such Party in any such action or proceeding will be effective if such process is given as a notice in accordance with Section 9.5. EACH OF THE PARTIES HEREBY IRREVOCABLY WAIVES TO THE EXTENT PERMITTED BY APPLICABLE LAW ANY AND ALL RIGHT TO A TRIAL BY JURY IN ANY DIRECT OR INDIRECT ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY. EACH PARTY (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER, (B) MAKES THIS WAIVER VOLUNTARILY, AND (C) ACKNOWLEDGES THAT EACH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS CONTAINED IN THIS SECTION 9.1.

9.2 ***Amendment***. This Agreement shall not be amended, changed or modified, except by another agreement in writing executed by the Parties.

9.3 ***Survival***. The representations, warranties, covenants and agreements made herein shall survive any investigation made by the Investor and the Closing.

9.4 ***Successors, Assigns***. Except as otherwise provided herein, the provisions hereof shall inure to the benefit of, and be binding upon, the successors, assigns, heirs, executors and administrators of the parties hereto. This Agreement may not be assigned by either Party without the prior written consent of the other; except that either Party may assign this Agreement to an Affiliate (as defined in Section 6.1(a)) of such Party or to any third party that acquires all or substantially all of such party's business, whether by merger, sale of assets or otherwise. In case of an assignment by either Party to its Affiliate, such Affiliate must agree in writing that, in case such Affiliate ceases to be an Affiliate of the assigning Party, the Agreement, or in case of an assignment of rights or obligations, such assigned rights shall automatically be re-assigned and transfer back to such assigning Party, and that the parties to such assignment agreement will do all acts that are required to effectuate such reassignment and transfer back to such assigning Party. Any attempted assignment or delegation in violation of this Section 9.4 shall be void and of no effect. All validly assigned and delegated rights and obligations of the Parties hereunder shall be binding upon and inure to the benefit of and be enforceable by and against the successors and permitted assigns of the Company or the Investor, as the case may be. The permitted assignee or transferee shall assume all obligations of its assignor or transferor under this Agreement.

9.5 ***Notices***. All notices and other communications required or permitted hereunder shall be in writing and shall be sent by facsimile (receipt confirmed) or mailed by registered or certified mail, postage prepaid, return receipt requested, or otherwise delivered by hand or by messenger, addressed

if to the Investor, at the following address:

c/o RTW Investments, LP
40 10th Avenue, Floor 7
New York, NY 10014
Attention: Roderick Wong and Alice Lee
Telephone: [*]
Email: [*]

if to the Company, at the following address:

Cytokinetics, Incorporated
350 Oyster Point Boulevard
South San Francisco, CA 94080
Attention: General Counsel
Facsimile: [*]
Email: [*]

or at such other address as one Party shall have furnished to the other Party in writing. All notices and communications under this Agreement shall be deemed to have been duly given (i) when delivered by hand, if personally delivered, (ii) when received by a recipient, if sent by email, (iii) when sent, if sent by facsimile, with an acknowledgement of sending being produced by the sending facsimile machine or (iv) one Business Day following sending within the United States by overnight delivery via commercial one-day overnight courier service.

9.6 ***Expenses***. Each of the Company and the Investor shall bear its own expenses and legal fees incurred on its behalf with respect to this Agreement and the transactions contemplated hereby.

9.7 ***Finder's Fees***. Each of the Company and the Investor shall indemnify and hold the other harmless from any liability for any commission or compensation in the nature of a finder's fee, placement fee or underwriter's discount (including the costs, expenses and legal fees of defending against such liability) for which the Company or the Investor, or any of its respective partners, employees, or representatives, as the case may be, is responsible.

9.8 ***Counterparts***. This Agreement may be executed in counterparts, each of which shall be deemed to be an original and enforceable against the party actually executing the counterpart, and all of which together shall constitute one and the same instrument. This Agreement may be executed by electronically transmitted signatures (including, without limitation, through the use of eSignature platforms such as DocuSign®) and such signatures shall be deemed to bind each Party hereto as if they were original signatures; and that this Agreement, or any part thereof, shall not be challenged or denied any legal effect, validity and/or enforceability solely on the ground that it is executed by electronically transmitted signatures.

9.9 ***Severability***. In the event that any provision of this Agreement becomes or is declared by a court of competent jurisdiction to be illegal, unenforceable or void, this Agreement shall continue in full force and effect without said provision; provided that no such severability shall be effective if it materially changes the economic benefit of this Agreement to any party.

9.10 ***Entire Agreement***. This Agreement and the other Transaction Agreements, including the exhibits and schedule attached hereto and thereto, constitute the full and entire understanding and agreement among the parties with regard to the subjects hereof and thereof. No party shall be liable or bound to any other party in any manner with regard to the subjects hereof or thereof by any warranties, representations or covenants except as specifically set forth herein or therein.

9.11 ***Specific Performance***. The Parties agree that irreparable damage would occur in the event any provision of this Agreement were not performed in accordance with the terms hereof and that the Parties shall be entitled to specific performance of the terms hereof, in addition to any other remedy at law or equity.

9.12 ***Headings***. The headings of the various articles and sections of this Agreement are inserted merely for the purpose of convenience and do not expressly or by implication limit, define or extend the specific terms of the section so designated.

9.13 ***Waiver***. The failure of either party to assert a right hereunder or to insist upon compliance with any term or condition of this Agreement shall not constitute a waiver of that right or excuse a similar subsequent failure to perform any such term or condition by the other party. None of the terms, covenants and conditions of this Agreement can be waived except by the written consent of the party waiving compliance.

[*Remainder of page left intentionally blank.*]

IN WITNESS WHEREOF, the Parties have executed this Common Stock Purchase Agreement as of the date first set forth above.

CYTOKINETICS, INCORPORATED		**RTW VENTURE FUND LIMITED**	
		By:	RTW Investments, LP, its Investment Manager
By:	/s/ Robert I. Blum	By:	/s/ Roderick Wong
Name:	Robert I. Blum	Name:	Roderick Wong, M.D.
Title:	President and CEO	Title:	Managing Partner

Schedule A

The Investor is an institutional “accredited investor” as defined in Rule 501(a) of Regulation D of the Securities Act.

Schedule B

Schedule of Exceptions

None

Exhibit 10.18

[*] – CERTAIN INFORMATION IN THIS DOCUMENT HAS BEEN EXCLUDED PURSUANT TO REGULATION S-K, ITEM 601(B)(10). SUCH EXCLUDED INFORMATION IS NOT MATERIAL AND WOULD LIKELY CAUSE COMPETITIVE HARM TO THE REGISTRANT IF PUBLICLY DISCLOSED.

DEVELOPMENT FUNDING LOAN AGREEMENT

THIS DEVELOPMENT FUNDING LOAN AGREEMENT (as the same may from time to time be amended, modified, supplemented or restated, this "**Agreement**") dated as of January 7, 2022 (the "**Effective Date**") among ROYALTY PHARMA DEVELOPMENT FUNDING, LLC, a Delaware limited liability company ("**RP**" and the "**Lender**" and together with RP's affiliates, successors and/or assignees that become Lenders hereunder, collectively but not jointly, the "**Lenders**") and CYTOKINETICS, INCORPORATED, a Delaware corporation with offices located at 350 Oyster Point Boulevard, South San Francisco, CA 94080 ("**Borrower**"), provides the terms on which the Lenders shall lend to Borrower and Borrower shall repay the Lenders. The parties agree as follows:

ARTICLE 1

ACCOUNTING AND OTHER TERMS

Section 1.1 Accounting Terms and Principles. Accounting terms not defined in this Agreement shall be construed in accordance with GAAP. Calculations and determinations must be made in accordance with GAAP. Notwithstanding any other provision contained in this Agreement or in any other Loan Document, all terms of an accounting or financial nature used herein and in the other Loan Documents shall be construed, and all computations of amounts referred to herein and in the other Loan Documents shall be made, without giving effect to (i) any election under Statement of Financial Accounting Standards No. 159 (Codification of Accounting Standards 825-10) to value any indebtedness or other liabilities of Borrower or any of its Subsidiaries at "fair value," as defined therein, and (ii) any changes to the GAAP accounting model for leases of the type described in Financial Accounting Standards Board Accounting Standards Update No. 2016-02 (February 2016), Leases (Topic 842) ("**ASU 2016-02**") for fiscal years ending after December 18, 2018. For the avoidance of doubt, all obligations of any person that are or would be characterized as operating lease obligations in accordance with GAAP prior to the applicability of ASU 2016-02 (whether or not such operating lease obligations were in effect on such date) shall continue to be accounted for as operating lease obligations (and not as capital lease obligations) for purposes of this Agreement regardless of any change in GAAP pursuant to ASU 2016-02 that would otherwise require such obligations to be recharacterized (on a prospective or retroactive basis or otherwise) as capital lease obligations.

Section 1.2 Capitalized Terms and Definitions. Capitalized terms not otherwise defined in this Agreement shall have the meanings set forth in Article 14.

Section 1.3 Interpretation. All references to "**Dollars**" or "**$**" are United States Dollars, unless otherwise noted. In this Agreement and the other Loan Documents, unless the context otherwise requires, all words and personal pronouns relating thereto shall be read and construed as the number and gender of the party or parties requires and the verb shall be read and construed as agreeing with the required word and pronoun. The division of this Agreement and the other Loan Documents into Articles and Sections and the use of headings and captions is for convenience of reference only and shall not modify or affect the interpretation or construction of this Agreement or any of its provisions. The words "herein," "hereof," "hereunder," "hereinafter" and "hereto" and words of similar import refer to this Agreement (or other applicable Loan Document) as a whole and not to any particular Article or Section hereof (or thereof). The term "or" has, except where otherwise indicated, the inclusive meaning represented by the phrase "and/or." The use in any of the Loan Documents of the word "include" or "including," when following any general statement, term or matter, shall not be construed to limit such statement, term or matter to the specific items or matters set forth immediately following such word or to similar items or matters, whether or not non-limiting language (such as "without limitation" or "but not limited to" or words of similar import) is used with reference thereto, but rather shall be deemed to refer to all other items or matters that fall within the broadest possible scope of such general statement, term or matter. References to a specified Article, Exhibit, Section or Schedule shall be construed as a reference to that specified Article, Exhibit, Section or Schedule of this Agreement (or other applicable Loan Document). Unless specifically stated otherwise, any reference to any of the Loan Documents means such document as the same shall be amended, restated, supplemented or otherwise modified and from time to time in effect. Unless otherwise specified herein or therein, all terms defined in any Loan Document shall have the defined meanings when used in any certificate or other document made or delivered pursuant hereto or thereto. The meanings of defined terms shall be equally applicable to the singular and plural forms of the defined terms. References to any statute or regulation may be made by using either the common or public name thereof or a specific cite reference and are to be construed as including all statutory and regulatory provisions related thereto or consolidating, amending, replacing, supplementing or interpreting the statute or regulation, and any reference to any law or regulation, shall, unless otherwise specified, refer to such law or regulation as amended, modified or supplemented from time to time. Whenever any reference is made in any Loan Document to any Person such reference shall be construed to include such Person's permitted successors and permitted assigns. Unless otherwise specified, all references in any Loan Document to times of day shall be references to New York City, New York time. The terms "shall" and "will" are used interchangeably in this Agreement and the other Loan Documents and mean for Borrower and its Subsidiaries to have an absolute obligation to perform or do (or not perform or not do) a certain action or event, as the context may require. Any reference to "payment in full", "paid in full", "repaid in full", "prepaid in full", "redeemed in full" or any other term or word of similar effect used in this Agreement or any other Loan Document with respect to the Term Loans or the Obligations shall mean all Term Loans and all Obligations (in each case, including, without limitation, the Applicable Payment Amount and other than inchoate indemnity and expense reimbursement obligations that have not yet been asserted) have been repaid in full in cash and have been fully performed and all Commitments have been permanently terminated. The payment, prepayment, redemption or repayment of any principal, interest, fees, amounts and/or other Obligations under this Agreement or the other Loan Documents shall be made in cash in Dollars unless expressly stated otherwise herein or therein.

Section 1.4 Business Day Adjustment. Except as otherwise expressly stated herein or in any other Loan Document, if the day by which any payment or other performance is due to be made is not a Business Day, that payment or performance shall be made by the immediately preceding Business Day.

Section 1.5 Officers. Any document, agreement or instrument delivered under the Loan Documents that is signed by a Responsible Officer or any other officer of Borrower shall be conclusively presumed to have been authorized by all necessary corporate, partnership and/or other action on the part of Borrower and such Responsible Officer or other officer shall be conclusively presumed to have acted on behalf of Borrower in such person's capacity as a Responsible Officer or other officer of Borrower and not in any individual capacity.

ARTICLE 2

LOANS AND TERMS OF PAYMENT

Section 2.1 Promise to Pay. Borrower hereby unconditionally promises to pay each Lender, the outstanding principal amount of all Credit Extensions and accrued and unpaid interest thereon and any other amounts due hereunder as and when due in accordance with this Agreement.

Section 2.2 Term Loans.

(a) Availability. Subject to the terms and satisfaction of the applicable conditions in this Agreement:

(i) the Lenders will, subject to the applicable conditions in this Agreement, severally (and not jointly) make a term loan to Borrower on the Effective Date in an aggregate amount of $50,000,000.00 (the "**Tranche 1 Advance**");

(ii) during the Tranche 2 Draw Period, Borrower may request and the Lenders will, subject to the applicable conditions in this Agreement, severally (and not jointly) make in an amount equal to $50,000,000.00 in the aggregate (the "**Tranche 2 Commitment**"), one (1) term loan to Borrower (the "**Tranche 2 Advance**"); provided that the Tranche 2 Commitment shall automatically terminate upon the earliest of the following: (A) the Tranche 2 Draw Condition does not occur on or prior to December 31, 2022 and (B) the Tranche 2 Commitment being terminated pursuant to Section 9.1(a);

(iii) during the Tranche 3 Draw Period, Borrower may request and the Lender will, subject to the applicable conditions in this Agreement, severally (and not jointly) make in an amount equal to $25,000,000 in the aggregate (the "**Tranche 3 Commitment**"), one (1) term loan to Borrower (the "**Tranche 3 Advance**"); provided that the Tranche 3 Commitment shall automatically terminate upon the earliest of the following: (A) the Tranche 2 Draw Condition does not occur on or prior to December 31, 2022, (B) the Tranche 3 Draw Condition does not occur on or prior to December 31, 2022 and (C) the Tranche 3 Commitment being terminated pursuant to Section 9.1(a);

(iv) during the Tranche 4 Draw Period, Borrower may request and the Lenders will, subject to the applicable conditions in this Agreement, severally (and not jointly) make in the amount of up to $75,000,000.00 in the aggregate (the "**Tranche 4 Commitment**"), one or more term loans to Borrower, each in the increment(s) of $25,000,000 (each, a "**Tranche 4 Advance**"); provided that the Tranche 4 Commitment shall automatically terminate upon the earliest of the following: (A) the Tranche 4 Draw Condition does not occur on or prior to September 30, 2024 and (B) the Tranche 4 Commitment being terminated pursuant to Section 9.1(a); and

(v) during the Tranche 5 Draw Period, Borrower may request and the Lenders will, subject to the applicable conditions in this Agreement, severally (and not jointly) make in the amount of up to $100,000,000.00 in the aggregate (the "**Tranche 5 Commitment**"), one or more term loans to Borrower, each in the increment(s) of $25,000,000 (each, a "**Tranche 5 Advance**"); provided that the Tranche 5 Commitment shall automatically terminate upon the earliest of the following: (A) the Tranche 5 Draw Condition does not occur on or prior to March 31, 2025, (B) the Tranche 4 Draw Conditions do not occur on or prior to September 30, 2024 and (C) the Tranche 5 Commitment being terminated pursuant to Section 9.1(a).

Each Tranche 1 Advance, Tranche 2 Advance, Tranche 3 Advance, Tranche 4 Advance and Tranche 5 Advance is herein referred to singly as a "**Term Loan**", and collectively as the "**Term Loans**". After repayment, no Term Loan may be re-borrowed. Each Tranche 2 Commitment, Tranche 3 Commitment, Tranche 4 Commitment and Tranche 5 Commitment is herein referred to singly as a "**Commitment**", and collectively as the "**Commitments**".

(b) Mandatory Draw. If the Tranche 4 Draw Condition occurs, Borrower shall be required to request a Tranche 4 Advance of at least $25,000,000 during the Tranche 4 Draw Period; provided, however, that if the Tranche 5 Draw Condition occurs prior to the end of the Tranche 4 Draw Period, Borrower may request a Tranche 5 Advance of at least $25,000,000 during the Tranche 5 Draw Period in lieu of the Tranche 4 Advance required under this Section 2.2(b).

(c) Repayment. Except as otherwise expressly specified in Section 2.2(d) and Section 2.2(e), with respect to each Term Loan made by the Lenders, Borrower shall make (i) quarterly payments commencing on the last Business Day of the seventh (7th) full calendar quarter following the calendar quarter of the Funding Date of such Term Loan in an amount equal to the amounts stated on Schedule 2.2(c) attached hereto for the applicable calendar quarter and (ii) on the Maturity Date, a payment of the Final Payment. Each Term Loan may only be prepaid, paid or repaid in accordance with Sections 2.2(d), 2.2(e) and 2.8.

(d) Mandatory Payments. If the Term Loans are (i) accelerated following the occurrence of an Event of Default pursuant to Section 9.1(a), Borrower shall immediately pay to Lenders, payable to each Lender in accordance with its respective Pro Rata Share, an amount equal to (x) with respect to an Event of Default other than an Event of Default of a type described in Section 8.5, the Regular Default Payment with respect to all Term Loans, and (y) with respect to an Event of Default of a type described in Section 8.5, the Specified Default Payment with respect to all Term Loans, or (ii) repaid, prepaid or otherwise paid under any circumstances other than pursuant to clause (i) directly above, the Borrower shall repay, prepay or pay to Lenders, payable to each Lender in accordance with its respective Pro Rate Share an amount equal to the Final Payment. Notwithstanding (but without duplication of) the foregoing or anything to the contrary in this Agreement or any other Loan Document, except in the instance described in clause (y) of the immediately preceding sentence, on the Maturity Date, if the Final Payment with respect to each Term Loan had not previously been paid in full in connection with the prepayment of the Term Loans in full, Borrower shall pay to each Lender in accordance with its respective Pro Rata Share, the Final Payment in respect of the Term Loan(s).

(e) Voluntary Prepayment of Term Loans. Borrower may at any time prepay all (but not less than all) of the Term Loans advanced by the Lenders under this Agreement, so long as (i) Borrower provides written notice to the Lenders of Borrower's election to prepay all of the outstanding Term Loans at least ten (10) Business Days prior to such prepayment, (ii) Borrower pays the Final Payment to Lenders on the date of prepayment indicated in such notice and (iii) if the Tranche 4 Draw Condition has occurred, Borrower shall have requested and drawn a Tranche 4 Advance or a Tranche 5 Advance required under Section 2.2(b). The prepayment notice delivered by Borrower pursuant to the preceding sentence shall be irrevocable; provided that such prepayment notice may state that such prepayment notice is conditioned upon the effectiveness of other transactions or events specified therein, in which case such notice may be permanently revoked by Borrower (by written notice to the Lenders on or prior to the specified effective date) if such condition is not satisfied (and Borrower certifying in writing thereto). Upon any prepayment of all (but not less than all) of the Term Loans and other Obligations by Borrower pursuant to this Section 2.2(e), all Commitments of the Lenders shall be irrevocably and permanently terminated.

(f) Breakdown of Payment Amounts; Application of Payment Amounts. Notwithstanding anything to the contrary in this Agreement, the other Loan Documents or any other document, as consideration for the Lenders agreeing to make (and actually making) any Term Loan, the payment amounts set forth on Schedule 2.2(c) for such Term Loan are a combination of interest for such Term Loan at the rate set forth in Section 2.3(a) (and, for the avoidance of doubt, without giving effect to any Default Rate applicable pursuant to Section 2.3(b)), the AFPA Applicable Fees for such Term Loan and principal of such Term Loan, with all such amounts (including, without limitation, all of the Applicable Final Payment Amount) earned as of the date such Term Loan is made by the applicable Lenders and with the application of payments with respect thereto for such Term Loan being applied (i) first, to interest applicable to such Term Loan until all such interest on such Term Loan through the Maturity Date has been paid in full, (ii) second, to the AFPA Applicable Fees on such Term Loan until such AFPA Applicable Fees on such Term Loan through the Maturity Date have been paid in full, and (iii) to the outstanding principal amount of such Term Loan. Borrower acknowledges and agrees that the Lenders would not have entered into this Agreement or any other Loan Document or agreed (or actually made) any Term Loan without the agreements set forth in the immediately preceding sentence being agreed to by Borrower and the Lenders. Borrower agrees that neither it nor any other Person shall take any action or file any claim, dispute or proceeding with any court or Person that would adversely impact the Lenders with respect to the bargain agreed to (or the amounts (or the breakdown or application of amounts) to be received by the Lenders) in the first sentence of this Section 2.2(f). Borrower hereby acknowledges and agrees that the Lenders shall have the right to apply for an injunction in any state or federal courts sitting in the City of New York, New York (or any appeals courts thereof) to prevent Borrower or any other Person from taking any such action or filing any such claim, dispute or proceeding. Borrower agrees that the AFPA Applicable Fees shall be treated as original issue discount and reported as interest for U.S. federal income tax purposes.

Section 2.3 Payment of Interest on the Credit Extensions.

(a) Interest Rate. Subject to Section 2.3(b), the principal amount outstanding under the Term Loans shall accrue interest at a rate equal to 1.90% per annum and which amount is included in the Applicable Final Payment Amount for the applicable Term Loans as reflected on Schedule 2.2(c) attached hereto, which interest shall be payable, earned and applied as set forth in Sections 2.2(c), 2.2(d), 2.2(e) and 2.2(f) (with Section 2.2(f) governing and controlling any conflict with respect to any such Sections). Interest shall accrue on each Term Loan commencing on, and including, the Funding Date of such Term Loan, and shall accrue on the principal amount outstanding under such Term Loan through and including the day on which such Term Loan is paid in full.

(b) Default Rate. Immediately upon the occurrence and during the continuance of an Event of Default, Obligations shall accrue interest at a rate equal to 4% over the Prime Rate (the "**Default Rate**"); provided that, solely in the case of an Event of Default for the violation of any covenant in Article 6 (other than Sections 6.1(a), 6.2(a)(i), 6.2(a)(ii), 6.2(a)(iii) and 6.4 and the last sentence of Section 6.9), the Default Rate shall accrue instead upon written notice from the Lender following such Event of Default. Payment or acceptance of the increased interest rate provided in this Section 2.3(b) is not a permitted alternative to timely payment and shall not constitute a waiver of any Event of Default or otherwise prejudice or limit any rights or remedies of any Lender.

(c) Payments. Except as otherwise expressly provided herein, all payments by Borrower under the Loan Documents shall be made to the respective Lender to which such payments are owed, at such Lender's office in immediately available funds on the date specified herein. Payments of principal and/or interest received after 12:00 noon New York time are considered received at the opening of business on the next Business Day. When a payment is due on a day that is not a Business Day, the payment is due the immediately preceding Business Day. All payments to be made by Borrower hereunder or under any other Loan Document, including payments of principal and interest, and all fees, expenses, indemnities and reimbursements, shall be made without set-off, recoupment or counterclaim, in lawful money of the United States and in immediately available funds.

Section 2.4 Promissory Notes; Note Register.

(a) Each Term Loan shall be evidenced by a separate Promissory Note in the form attached as Exhibit A hereto (each a "**Promissory Note**"), and shall be repayable as set forth in this Agreement. Borrower irrevocably authorizes each Lender to make or cause to be made, at the time of receipt of any payment of principal on such Lender's Promissory Note, an appropriate notation on the applicable Promissory Note reflecting the receipt of such payment. The outstanding amount of each Term Loan set forth on the applicable Promissory Note shall be prima facie evidence of the principal amount thereof owing and unpaid to such Lender, but the failure to record, or any error in so recording, any such amount on such Lender's Promissory Note shall not limit or otherwise affect the obligations (including, without limitation, the Obligations) of Borrower under any Promissory Note or any other Loan Document to make payments of principal of or interest on, and any other Obligations (including, without limitation, the Applicable Payment Amount) owed under, any Promissory Note when due. Upon receipt of an affidavit of an officer of a Lender as to the loss, theft, destruction, or mutilation of its Promissory Note**,** Borrower shall issue, in lieu thereof, a replacement Promissory Note in the same principal amount thereof and of like tenor. Upon any assignment or transfer of any Promissory Note by a Lender, upon such Lender's (or such assignee's or transferee's) request, Borrower shall issue a new Promissory Note reflecting the assigned or transferred interest and a separate new Promissory Note covering any interest remaining with the assigning or transferring Lender.

(b) Borrower will maintain at all times at its principal executive office a register for the Promissory Notes in which it shall record the name and address of the Person or Persons in whose name the Promissory Notes have been issued (including the name and address of each transferee of one or more Promissory Notes) and the principal amount, the stated interest and the AFPA Applicable Fees of the Promissory Notes held by such Person or Persons (the "**Note Register**"). The Register shall be available for inspection by RP or any Lender at any reasonable time and from time to time upon reasonable prior notice. Notwithstanding anything to the contrary contained herein, the Promissory Notes are registered obligations and the right, title, and interest of each Lender and its assignees in and to such Promissory Notes shall be transferable only upon notation of such transfer in the Note Register. The Promissory Notes shall only evidence a Lender's or its assignee's right, title and interest in and to the related Promissory Notes, and in no event is any such Promissory Note to be considered a bearer instrument or obligation. For the avoidance of doubt, the foregoing provisions are intended to comply with the registration requirements in Treasury Regulations Section 5f.103-1(c), so that the Promissory Notes are considered to be issued in "registered form" within the meaning of such regulations, and all parties hereto shall construe the provisions of this Agreement to ensure that the Promissory Notes will be considered to have been so issued.

(c) Each Lender that sells a participation shall, acting solely for this purpose as an agent of the Borrower, maintain a register on which it enters the name and address of each participant and the principal amounts and stated interest of each participant's interest in the Commitments or other obligations under the Loan Documents (the "**Participant Register**"); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register to any Person (including the identity of any participant or any information relating to a participant's interest in any commitments, loans, letters of credit or its other obligations under any Loan Document) except to the extent that such disclosure is necessary to establish that such Commitment other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary.

Section 2.5 Fees and Expenses. Borrower shall pay to each Lender:

(a) Applicable Payment Amount. The Lender's Pro Rata Share of the Applicable Payment Amount, when due hereunder. The parties hereto hereby acknowledge and agree that, in light of the impracticality and extreme difficulty of ascertaining actual damages, the Non-Default Make Whole Amount, the Regular Default Make Whole Amount and the Specified Default Make Whole Amount (which comprise a portion of the Final Payment, the Regular Default Payment and the Specified Default Payment, respectively) shall constitute liquidated damages and are each a reasonable calculation of the actual damages that would be suffered by the Lenders as a result of any prepayment, early repayment or acceleration, as applicable, of the Term Loan(s) and are each intended to compensate the Lenders for, among other damages, the loss of yield and reinvestment costs. The parties hereto hereby further acknowledge and agree that the Lenders would not have entered into this Agreement, and the Lenders would not have provided the Commitments and would not have made any Term Loan, without Borrower agreeing to pay the Applicable Payment Amount (including, without limitation, the Non-Default Make Whole Amount, the Regular Default Make Whole Amount and the Specified Default Make Whole Amount, as applicable) in accordance with the provisions of this Agreement. The parties hereto hereby further acknowledge and agree that neither the Regular Default Make Whole Amount, the Non-Default Make Whole Amount nor the Specified Default Make Whole Amount is intended to act as a penalty or to punish Borrower for any prepayment, early repayment or acceleration of any Term Loan. Notwithstanding the foregoing, in the event that a court of competent jurisdiction determines (pursuant to a final order that is not subject to a pending appeal and is no longer appealable) that the Regular Default Make Whole Amount, Non-Default Make Whole Amount or the Specified Default Make Whole Amount with respect to a Term Loan is unenforceable, disallowed or for any other reason not payable to the Lenders, then an amount equal to the greater of the maximum amount permitted by law and the Regular Default Make Whole Amount, the Non-Default Make Whole Amount or the Specified Default Make Whole Amount, as applicable, with respect to such Term Loan shall be immediately due and payable and such amount shall be deemed to replace the Regular Default Make Whole Amount, Non-Default Make Whole Amount or the Specified Default Make Whole Amount, as applicable, with respect to such Term Loan.

(b) Lenders' Expenses. All Lenders' Expenses of such Lender incurred after the Effective Date, on the earlier of (i) when due pursuant to Section 9.1 and (ii) within five (5) Business Days of written demand therefor. Upon the reasonable written request therefor by Borrower, the applicable Lender will provide Borrower reasonable documentation of such Lenders' Expenses incurred, subject to redactions and removals for attorney-client privilege information, conflicts of interest information, loan restructuring (or potential loan restructuring) information and other sensitive information.

Section 2.6 Withholding. Payments received by the Lenders from Borrower hereunder will be made free and clear of and without deduction for any and all present or future taxes, levies, imposts, duties, deductions, withholdings, assessments, fees or other charges imposed by any governmental authority (including any interest, additions to tax or penalties applicable thereto) ("**Taxes**"), except as required by any Requirement of Law. Specifically, if at any time any Requirement of Law (as determined in the good faith discretion of the Borrower) require Borrower to make any Tax withholding or deduction from any such payment or other sum payable hereunder to the Lenders, Borrower shall be entitled to make such Tax deduction or withholding and shall timely pay the full amount withheld or deducted to the relevant Governmental Authority in accordance with Requirement of Law and, if such Tax is an Indemnified Tax, then the sum payable by the Borrower to the applicable Lender shall be increased as necessary so that after such deduction and withholding has been made (including such deductions and withholdings applicable to additional sums payable under this Section 2.6) the applicable Lender receives an amount equal to the sum it would have received had no such deduction or withholding been made. Borrower will, upon request, furnish the Lenders with proof reasonably satisfactory to the Lenders indicating that Borrower has made such withholding payment; provided, however, that Borrower need not make any withholding payment if the amount or validity of such withholding payment is contested in good faith by appropriate and timely proceedings in accordance with GAAP. The agreements and obligations of Borrower contained in this Section 2.6 shall survive the termination of this Agreement. Prior to becoming a party to this Agreement, each Lender shall provide to Borrower an IRS Form W-9 or appropriate IRS Form W-8, as applicable, providing that such Lender is entitled to an exemption from U.S. federal "backup" withholding.

Section 2.7 Mitigation. If any Lender requires the Borrower to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.6, then such Lender shall (at the written request of the Borrower) use reasonable efforts to designate a different lending office for funding or booking its loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the reasonable judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 2.6, in the future, and (ii) would not subject such Lender to any unreimbursed loss, cost or expense and would not otherwise be disadvantageous to such Lender. The Borrower hereby agrees to pay all losses and reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

Section 2.8 Change of Control. The Borrower shall give the Lenders written notice of a Change of Control at least fifteen (15) Business Days prior to the consummation thereof but in any event not later than two (2) Business Days following the first public announcement thereof. Within ten (10) Business Days after the receipt of such written notice, (a) the Lenders, in the exercise of their sole discretion, may deliver a written notice to the Borrower (the "**Put Notice**") or (b) the Borrower, in the exercise of its sole discretion, may deliver a written notice to the Lenders (the "**Repayment Notice**") that the Final Payment with respect to all Term Loans shall be due and payable and all remaining Commitments shall be automatically terminated upon the consummation of such Change of Control, with no further action taken by any Person as of or after the date of such Put Notice or Repayment Notice, as applicable. If the Lenders deliver a Put Notice or the Borrower delivers a Repayment Notice, as applicable, then simultaneously with consummation of such Change of Control, the Borrower shall make (or cause to be made) the Final Payment with respect to all Term Loans to the Lenders and all remaining Commitments shall be immediately and automatically terminated upon the consummation of such Change of Control.

ARTICLE 3

CONDITIONS OF LOANS

Section 3.1 Conditions Precedent to Initial Credit Extension. Each Lender's obligation to make a Term Loan on the Effective Date (or otherwise) is subject to the condition precedent that RP and each Lender shall consent to or shall have received, in form and substance satisfactory to RP and each Lender, such documents, and completion of such other matters, as RP and each Lender may reasonably deem necessary or appropriate, including, without limitation:

(a) original Loan Documents, each duly executed by Borrower;

(b) a duly executed original Promissory Note in favor of RP;

(c) the Operating Documents and good standing certificates of Borrower and its Subsidiaries that are Loan Parties certified by the Secretary of State (or equivalent agency) of Borrower's and such Subsidiaries' jurisdiction of organization or formation and each jurisdiction in which Borrower and each Subsidiary is qualified to conduct business, each as of a date no earlier than thirty (30) days prior to the Effective Date**;**

(d) the Annual Projections, for the current calendar year;

(e) duly executed original officer's certificate for Borrower and each Subsidiary that is a party to the Loan Documents, in a form acceptable to RP and the Lenders, which shall include a certification that the Borrower and its Subsidiaries are each Solvent;

(f) certified copies, dated as of date no earlier than thirty (30) days prior to the Effective Date, of financing statement searches, as RP shall request;

(g) a payoff letter from Silicon Valley Bank and Oxford Finance LLC in respect of the Existing Indebtedness;

(h) evidence that (i) the Liens securing the Existing Indebtedness have been (or will be on the Effective Date) terminated and (ii) the documents and/or filings evidencing the perfection of such Liens, including without limitation any financing statements and/or control agreements, have or will, concurrently with the initial Credit Extension, be terminated;

(i) a duly executed legal opinion of counsel to Borrower with respect to this Agreement and the other Loan Documents dated as of the Effective Date; and

(j) a duly executed copy of (i) the Revenue Participation Right Purchase Agreement dated as of the Effective Date, by and between Borrower and Royalty Pharma Investments 2019 ICAV (the "**Purchase Agreement**") and (ii) the Amendment No. 1 to Royalty Purchase Agreement dated as of the Effective Date, by and between Borrower and RPI Finance Trust (the "**2017 PA Amendment**"), which amends certain provisions of that certain Royalty Purchase Agreement, dated as of February 1, 2017, by and between the same parties (the "**2017 PA**"), in each case of clause (i) and clause (ii), which shall be in full force and effect as of such time and the transactions thereunder that are intended to occur on the Effective Date shall have occurred (or shall have substantially concurrently occurred) pursuant to the terms and conditions thereof.

Section 3.2 Conditions Precedent to all Credit Extensions. The obligation of each Lender to make each Credit Extension, including the initial Credit Extension, is subject to the following conditions precedent:

(a) receipt by the Lenders of an executed Disbursement Letter in the form of Exhibit B attached hereto;

(b) the representations and warranties in Article 5 hereof shall be true, accurate and complete in all material respects on the date of the Disbursement Letter and on the Funding Date of each Credit Extension; provided, however that those representations and warranties expressly referring to a specific date shall be true, accurate and complete in all material respects as of such date and provided, further that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof; and no default (including prior to giving effect to any grace or cure period) or Event of Default shall have occurred and be continuing or result from the Credit Extension;

(c) with respect to each Credit Extension made by each Lender after the Effective Date, receipt by such Lender of one or more duly executed Promissory Notes, in number, form and content acceptable to such Lender, and in favor of such Lender; and

(d) receipt by the Lenders of a certificate of a Responsible Officer of the Borrower certifying that (i) the conditions set forth in clauses (b) and (c) of this Section 3.2 have been satisfied, (ii) the Borrower and its Subsidiaries are each Solvent, and (iii) the Tranche 2 Draw Period, Tranche 3 Draw Period, Tranche 4 Draw Period or Tranche 5 Draw Period, as applicable, has commenced and is continuing.

Section 3.3 Covenant to Deliver. Borrower agrees to deliver to RP and the Lenders each item required to be delivered to RP under this Agreement as a condition precedent to any Credit Extension. Borrower expressly agrees that a Credit Extension made prior to the receipt by RP or any Lender of any such item shall not constitute a waiver by RP or any Lender of Borrower's obligation to deliver such item, and any such Credit Extension in the absence of a required item shall be made in each Lender's sole discretion.

Section 3.4 Procedures for Borrowing. Subject to the prior satisfaction of all other applicable conditions to the making of a Term Loan set forth in this Agreement, to obtain a Term Loan, Borrower shall notify the Lenders (which notice shall be irrevocable) by electronic mail or telephone by 12:00 noon New York time fifteen (15) Business Days prior to the date the Term Loan is to be made. Together with any such electronic or telephonic notification, Borrower shall deliver to the Lenders by electronic mail a completed Disbursement Letter executed by a Responsible Officer or his or her designee. The Lenders may rely on any telephone notice given by a person whom a Lender reasonably believes is a Responsible Officer or designee. On the Funding Date, each Lender shall credit to the Borrower's account detailed in the Disbursement Letter.

ARTICLE 4

[RESERVED]

ARTICLE 5

REPRESENTATIONS AND WARRANTIES

Borrower represents and warrants to the Lenders as follows:

Section 5.1 Due Organization, Authorization: Power and Authority. Borrower and each of its Subsidiaries is duly existing and in good standing as a registered organization in its jurisdictions of organization or formation and Borrower and each of its Subsidiaries is qualified and licensed to do business and is in good standing in any jurisdiction in which the conduct of its businesses or its ownership of property requires that it be qualified except where the failure to do so could not reasonably be expected to have a Material Adverse Change.

The execution, delivery and performance by Borrower and each of its Subsidiaries of the Loan Documents to which it is a party have been duly authorized, and do not (i) conflict with any of Borrower's or such Subsidiaries' organizational documents, including its respective Operating Documents, (ii) contravene, conflict with, constitute a default under or violate any material Requirement of Law applicable thereto, (iii) contravene, conflict or violate any applicable order, writ, judgment, injunction, decree, determination or award of any Governmental Authority by which Borrower or such Subsidiary, or any of their property or assets may be bound or affected, (iv) require any action by, filing, registration, or qualification with, or Governmental Approval from, any Governmental Authority (except such Governmental Approvals which have already been obtained and are in full force and effect), or (v) constitute an event of default under any material agreement (including, without limitation, the Purchase Agreement, the 2017 PA, Amendment or the 2017 PA) by which Borrower or any of such Subsidiaries, or their respective properties, is bound. Neither Borrower nor any of its Subsidiaries is in default under any agreement to which it is a party or by which it or any of its assets is bound in which such default could reasonably be expected to have a Material Adverse Change.

Section 5.2 [Reserved].

Section 5.3 Litigation. Except as disclosed in accordance with Section 6.9 hereof, there are no actions, suits, investigations, or proceedings pending or, to Borrower's Knowledge, threatened in writing by or against Borrower or any of its Subsidiaries involving more than [*].

Section 5.4 No Material Deterioration in Financial Condition; Financial Statements. All consolidated financial statements for Borrower and its Subsidiaries, delivered to RP fairly present, in conformity with GAAP, in all material respects the consolidated financial condition of Borrower and its Subsidiaries, and the consolidated results of operations of Borrower and its Subsidiaries. There has not been any Material Adverse Change since the date of the most recent financial statements submitted to any Lender.

Section 5.5 Solvency. Borrower, taken together with its Subsidiaries, is Solvent.

Section 5.6 Regulatory Compliance. Neither Borrower nor any of its Subsidiaries is an "investment company" or a company "controlled" by an "investment company" under the Investment Company Act of 1940, as amended. Neither Borrower nor any of its Subsidiaries is engaged as one of its important activities in extending credit for margin stock (under Regulations X, T and U of the Federal Reserve Board of Governors). Borrower and each of its Subsidiaries has complied in all material respects with the Federal Fair Labor Standards Act. Neither Borrower nor any of its Subsidiaries is a "holding company" or an "affiliate" of a "holding company" or a "subsidiary company" of a "holding company" as each term is defined and used in the Public Utility Holding Company Act of 2005. Neither Borrower nor any of its Subsidiaries has violated any laws, ordinances or rules, the violation of which could reasonably be expected to have a Material Adverse Change. Neither Borrower's nor any of its Subsidiaries' properties or assets has been used by Borrower or such Subsidiary or, to Borrower's Knowledge, by previous Persons, in disposing, producing, storing, treating, or transporting any hazardous substance other than in material compliance with applicable laws. Borrower and each of its Subsidiaries has obtained all consents, approvals and authorizations of, made all declarations or filings with, and given all notices to, all Governmental Authorities that are necessary to continue their respective businesses as currently conducted, in all material respects.

None of Borrower, any of its Subsidiaries, or, to Borrower's Knowledge, any of Borrower's or its Subsidiaries' Affiliates or any of their respective agents acting or benefiting in any capacity in connection with the transactions contemplated by this Agreement, is (i) in violation of any Anti-Terrorism Law, (ii) engaging in or conspiring to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding or attempts to violate, any of the prohibitions set forth in any Anti-Terrorism Law, or (iii) a Blocked Person. None of Borrower, any of its Subsidiaries, or to Borrower's Knowledge, any of their Affiliates or agents, acting or benefiting in any capacity in connection with the transactions contemplated by this Agreement, (x) conducts any business or engages in making or receiving any contribution of funds, goods or services to or for the benefit of any Blocked Person, or (y) deals in, or otherwise engages in any transaction relating to, any property or interest in property blocked pursuant to Executive Order No. 13224, any similar executive order, or any other Anti-Terrorism Law.

Section 5.7 Investments. Neither Borrower nor any of its Subsidiaries owns any stock, shares, partnership interests, other equity securities or other Equity Interests except as set forth on Schedule 5.7, Permitted Investments and as otherwise disclosed in writing to the Lenders as an update to Schedule 5.7 (but solely to the extent such transaction would not be in violation of Section 7.7).

Section 5.8 Tax Returns and Payments; Pension Contributions. Borrower and each of its Subsidiaries has timely filed all required tax returns and reports or extensions thereof, and Borrower and each of its Subsidiaries, has timely paid all foreign, federal, state, and local taxes, assessments, deposits and contributions owed by Borrower and such Subsidiaries, in all jurisdictions in which Borrower or any such Subsidiary is subject to taxes, including the United States, unless such taxes are being contested in accordance with the following sentence. Borrower and each of its Subsidiaries, may defer payment of any contested taxes, provided that Borrower or such Subsidiary, in good faith contests its obligation to pay the taxes by appropriate proceedings promptly and diligently instituted and conducted and for which adequate reserves are being maintained in accordance with GAAP. To Borrower's Knowledge, there are no claims or adjustments proposed for any of Borrower's or such Subsidiaries' prior tax years which could result in additional taxes becoming due and payable by Borrower or its Subsidiaries. Borrower and each of its Subsidiaries have paid all amounts necessary to fund all present pension, profit sharing and deferred compensation plans in accordance with their terms, and neither Borrower nor any of its Subsidiaries have, withdrawn from participation in, and have not permitted partial or complete termination of, or permitted the occurrence of any other event with respect to, any such plan which could reasonably be expected to result in any liability of Borrower or its Subsidiaries, including any liability to the Pension Benefit Guaranty Corporation or its successors or any other Governmental Authority.

Section 5.9 Use of Proceeds. Borrower shall use the proceeds of the Credit Extensions solely (i) to support the commercialization of the Products, (ii) to pay transaction fees, costs and expenses incurred in connection with the transactions contemplated by this Agreement, (iii) to repay and discharge the Existing Indebtedness and (iv) as working capital and to fund its general business requirements.

Section 5.10 [Reserved].

Section 5.11 Full Disclosure. No written representation, warranty or other statement of Borrower or any of its Subsidiaries in any certificate or written statement given to RP or any Lender, as of the date such representation, warranty, or other statement was made, taken together with all such written certificates and written statements given to RP or any Lender, contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements contained in the certificates or statements not misleading (it being recognized that the projections and forecasts provided by Borrower in good faith and based upon assumptions believed by Borrower to be reasonable at the time made are not viewed as facts and that actual results during the period or periods covered by such projections and forecasts may differ from the projected or forecasted results and that such differences may be material, and no representation or warranty is given that any projection or forecast will be realized).

Section 5.12 Definition of "Knowledge". For purposes of the Loan Documents, whenever a representation or warranty is made to Borrower's Knowledge, or with a similar qualification, "Knowledge" means the actual knowledge of [*], after reasonable due inquiry; provided that in the case of "Borrower's Knowledge" with respect to agents of Borrower or its Subsidiaries in the second paragraph of Section 5.6, it shall mean actual knowledge of the foregoing officers, without any inquiry.

ARTICLE 6

AFFIRMATIVE COVENANTS

Borrower shall, and shall cause each of its Subsidiaries to, do all of the following:

Section 6.1 Government Compliance.

(a) Maintain its and all its Subsidiaries' legal existence and good standing in their respective jurisdictions of organization and maintain qualification in each jurisdiction in which the failure to so qualify could reasonably be expected to have a Material Adverse Change. Comply with all laws, ordinances and regulations to which Borrower or any of its Subsidiaries is subject, the noncompliance with which could reasonably be expected to have a Material Adverse Change.

(b) Obtain and keep in full force and effect, all of the material Governmental Approvals necessary for the performance by Borrower and its Subsidiaries of their respective businesses and obligations under the Loan Documents. Borrower shall promptly provide copies to the Lenders of any material Governmental Approvals related to any Products in the United States and the Major European Countries.

Section 6.2 Financial Statements, Reports, Certificates.

(a) Deliver the Lenders:

(i) as soon as available, but no later than forty-five (45) days after the last day of each fiscal quarter (other than the fourth fiscal quarter of any fiscal year), a company prepared consolidated balance sheet, income statement and cash flow statement covering the consolidated operations of Borrower and its Subsidiaries for such quarter;

(ii) as soon as available, but no later than ninety-five (95) days after the last day of Borrower's fiscal year or within five (5) days of filing with the SEC, audited consolidated financial statements prepared under GAAP, consistently applied, together with an unqualified opinion on the financial statements from Ernst & Young LLP or another independent certified public accounting firm of recognized national standing;

(iii) as soon as available after approval thereof by Borrower's Board of Directors, but no later than sixty (60) days after the last day of each of Borrower's fiscal years, Borrower's annual financial projections for the entire current fiscal year as approved by Borrower's Board of Directors, which such annual financial projections shall be set forth in a quarter by quarter format (such annual financial projections as originally delivered to the Lenders are referred to herein as the "**Annual Projections**"; provided that, any revisions of the Annual Projections that have been approved by Borrower's Board of Directors, shall be delivered to the Lenders no later than seven (7) days after such approval);

(iv) within five (5) days of delivery, copies of all material statements, reports and notices made available to Borrower's holders of Borrower's Indebtedness in excess of [*];

(v) within five (5) days of filing, all reports on Form 10-K, 10-Q and 8-K filed with the Securities and Exchange Commission;

(vi) prompt notice of any event that could reasonably be expected to materially and adversely affect the value of the Intellectual Property, taken as a whole, related to the Products; and

(vii) other information as reasonably requested by any Lender.

Notwithstanding the foregoing, documents required to be delivered pursuant to the terms hereof (to the extent any such documents are included in materials otherwise filed with the SEC) may be delivered electronically and shall be deemed to have been delivered on the date on which Borrower posts such documents, or provides a link thereto, on Borrower's website on the internet at Borrower's website address.

(b) Keep proper books of record and account in accordance with GAAP in all material respects, in which full, true and correct entries shall be made of all dealings and transactions in relation to its business and activities. Borrower shall, and shall cause each of its Subsidiaries to, allow, at the sole cost of Borrower, during regular business hours upon reasonable prior written notice (provided that no notice shall be required when an Event of Default has occurred and is continuing), to visit and inspect any of its properties, to examine and make abstracts or copies from any of Borrower's books and records, and to conduct a collateral audit and analysis of its operations. Such audits shall be conducted no more often than once in any twelve-month period unless (and more frequently if) an Event of Default has occurred and is continuing.

Section 6.3 [Reserved].

Section 6.4 Taxes; Pensions. Timely file and cause each of its Subsidiaries to timely file, all required tax returns and reports or extensions thereof and timely pay, and cause each of its Subsidiaries to timely file, all foreign, federal, state, and local taxes, assessments, deposits and contributions owed by Borrower or its Subsidiaries, except for deferred payment of any taxes contested pursuant to the terms of Section 5.8 hereof, and shall deliver to Lenders, on demand, appropriate certificates attesting to such payments, and pay all amounts necessary to fund all present pension, profit sharing and deferred compensation plans in accordance with the terms of such plans.

Section 6.5 Insurance. Keep Borrower's and its Subsidiaries' business insured for risks and in amounts standard for companies in Borrower's and its Subsidiaries' industry and location.

Section 6.6 [Reserved].

Section 6.7 Protection of Intellectual Property Rights. Borrower and each of its Subsidiaries shall: (a) use commercially reasonable efforts to protect, defend and maintain the validity and enforceability of its Intellectual Property that is material to the Products; (b) promptly advise RP in writing of infringement by a third party of its Intellectual Property that is material to the Products; and (c) not allow any Intellectual Property material to the Products to be abandoned, forfeited or dedicated to the public without RP's prior written consent (except for any abandonment, forfeiture or dedication to the public of any Intellectual Property or rights relating thereto that are uneconomical, negligible, obsolete, or otherwise no longer material to the Products, in each case, as determined by Borrower in good faith).

Section 6.8 Litigation Cooperation. Commencing on the Effective Date and continuing through the termination of this Agreement, make available to RP and the Lenders, without expense to RP or the Lenders, Borrower and each of Borrower's officers, employees and agents and Borrower's Books, to the extent that RP or any Lender may reasonably deem them necessary to prosecute or defend any third-party suit or proceeding instituted by or against RP or any Lender relating to Borrower.

Section 6.9 Notices of Litigation and Default. Borrower will give prompt written notice to RP and the Lenders of any litigation or governmental proceedings pending or threatened (in writing) against Borrower or any of its Subsidiaries, which could reasonably be expected to result in damages or costs to Borrower or any of its Subsidiaries of [*] or more or which could reasonably be expected to have a Material Adverse Change. Without limiting or contradicting any other more specific provision of this Agreement, promptly (and in any event within three (3) Business Days) upon Borrower's Knowledge of the existence of any Event of Default or event which, with the giving of notice or passage of time, or both, would constitute an Event of Default, Borrower shall give written notice to RP and the Lenders of such occurrence, which such notice shall include a reasonably detailed description of such Event of Default or event which, with the giving of notice or passage of time, or both, would constitute an Event of Default.

Section 6.10 Further Assurances.

(a) Execute any further instruments and take further action as RP or any Lender reasonably requests to effect the purposes of this Agreement.

(b) Deliver to RP, within five (5) days after the same are sent or received, copies of all material correspondence, reports, documents and other filings with any Governmental Authority that (i) could reasonably be expected to have a material adverse effect on any of the Governmental Approvals material to the Products in the United States or the Major European Countries or (ii) otherwise could reasonably be expected to have a Material Adverse Change; provided that in each case, Borrower shall be permitted to redact any data, reports or other information, the disclosure of which would violate confidentiality requirements or applicable laws, including, without limitation, Health Insurance Portability and Accountability Act of 1996 (or any comparable state laws), the General Data Protection Regulation (EU) 2016/679 (whether by direct application or contractual obligation), or other applicable data privacy laws, regulations or contractual obligations with respect to personal data.

ARTICLE 7

NEGATIVE COVENANTS

Borrower shall not, and shall not permit any of its Subsidiaries to, do any of the following without the prior written consent of RP:

Section 7.1 Dispositions. (a) Convey, sell, lease, transfer, license, assign, or otherwise dispose of (collectively, "**Transfer**") all or substantially all of the business or property of Borrower or any of its Subsidiaries (other than any Immaterial Subsidiary), or (b) Transfer the right to Commercialize any pharmaceutical product containing or comprising omecamtiv mecarbil or aficamten (each such product, a "**Product**") in the United States or in the case of aficamten, any Major European Country; provided, however, that the foregoing shall not restrict Borrower from, without RP's consent, (i) selling, assigning, transferring, or otherwise disposing of inventory of the Product in the ordinary course of business in connection with the Development or Commercialization of the Product, (ii) entering into and performing obligations or exercising rights under a Co-Commercialization Agreement, (iii) selling, assigning, transferring or otherwise disposing of assets that are material to the Development or Commercialization of the Product that are no longer reasonably necessary in the Development or Commercialization of the Product (such as obsolete equipment); (iv) entering into a Permitted License; (v) any Transfer of assets among the Loan Parties; or (vi) any Transfer of Marketing Approvals for a Product in any jurisdiction (other than the United States) to any Subsidiary or other Person in connection with a permitted transfer hereunder for the Commercialization by such Subsidiary or Person of such Product in such jurisdiction (or in the case of the Transfer to a Subsidiary, in connection with Commercialization by a Loan Party in such jurisdiction).

Section 7.2 Changes in Business. (a) Engage in or permit any of its Subsidiaries to engage in any business other than the business of developing and Commercializing pharmaceutical products and other businesses reasonably related or incidental thereto; or (b) liquidate or dissolve except that (i) any Subsidiaries of Borrower may be dissolved or liquidated into Borrower or another Loan Party and (ii) any Subsidiary that is not a Loan Party may be dissolved or liquidated into, any other Subsidiary that is not a Loan Party.

Section 7.3 Mergers or Acquisitions. (a) Merge or consolidate with any other Person unless (i) in connection with any merger or consolidation involving the Borrower, the Borrower is the surviving legal Person, (ii) in connection with any merger or consolidation of a Subsidiary with or into a Loan Party, the surviving legal Person is a Loan Party, or (iii) in connection with any merger or consolidation involving a Subsidiary of the Borrower that is not a Loan Party with any Person that is not a Loan Party, such Subsidiary is the surviving legal Person (except with respect to when such Subsidiary is an Immaterial Subsidiary) and (b) divide or split into one or more Persons unless all of the Persons into which the Borrower or any other Loan Party divided or split become co-Borrowers or Guarantors (with at least one such Person being a Borrower, which shall be determined by RP and the Lenders in their sole discretion).

Section 7.4 Indebtedness. (a) Create, incur, assume, or be liable for any Indebtedness secured by a Lien on the assets of the Borrower or its Subsidiaries other than Permitted Secured Indebtedness or (b) create, incur, assume, or be liable for any Indebtedness that is a debt security issued by the Borrower or its Subsidiaries which is convertible into or exchangeable for Equity Interests of the Borrower (or any of its Subsidiaries) and/or cash (in an amount determined by reference to the price of such Equity Interests), other than (I) Indebtedness that (i) is unsecured, (ii) will not have a stated maturity prior to the date that is the later of (A) five (5) years from the date of issuance and (B) December 31, 2027, (iii) has no scheduled amortization or principal payments or requires any mandatory redemptions or payments of principal in cash prior to the date that is five (5) years from the date of issuance other than customary payments upon the occurrence of an event of default, a change of control or fundamental change event (provided that this clause (iii) does not prohibit Borrower from (x) paying the principal amount of a convertible security in cash at maturity or voluntarily (but not mandatorily) upon conversion prior to maturity, (y) settling any conversion or exchange thereof in Equity Interests of the Borrower or (z) paying cash in lieu of fractional shares) and (iv) immediately before and after giving pro forma effect to the incurrence of such Indebtedness and any concurrent use of proceeds thereof, no default under the Loan Documents or Event of Default shall have occurred and be continuing, and (II) the Existing Convertible Indebtedness (and together with the Indebtedness that satisfies each of the requirements and conditions in preceding clauses (I), collectively, the "**Permitted Convertible Indebtedness**").

Section 7.5 Amendments of Certain Documents. Amend or enter into any documents or agreements evidencing any Indebtedness, royalty purchase agreements, licenses, sublicenses or documents or agreements related to any biopharmaceutical products of Borrower or its Subsidiaries, in each case in a manner that would reasonably result in a Material Adverse Change.

Section 7.6 [Reserved]

Section 7.7 Distributions; Investments. (a) Pay any dividends (other than dividends payable solely in Equity Interests) or make any distribution or payment in respect of or redeem, retire or purchase any Equity Interests (all of the foregoing, the "**Restricted Payments**") except that Borrower or any Subsidiary may (i) repurchase Equity Interests of Borrower from current or former employees, directors or consultants pursuant to stock repurchase agreements or stock purchase plans so long as such repurchases do not exceed [*] in the aggregate per fiscal year and no default under the Loan Documents or Event of Default then exists or would be caused thereby, (ii) repurchase Equity Interests of Borrower from current or former employees, directors or consultants pursuant to stock repurchase agreements by the cancellation of indebtedness owed by such former employees in the ordinary course of business regardless of whether an Event of Default exists, (iii) convert or exchange of any of its convertible securities of Borrower into other securities pursuant to the terms of such convertible securities or otherwise in exchange thereof to the extent no Event of Default then exists or would be caused thereby and, solely in the case of cash conversions (other than cash in lieu of fractional shares), no default under the Loan Documents then exists or would be caused thereby, (iv) purchase for value of any rights distributed in connection with any stockholder rights plan to the extent no default under the Loan Documents or Event of Default then exists or would be caused thereby, (v) purchases of Equity Interests of Borrower with the proceeds received from a substantially concurrent issuance of Equity Interests or convertible securities to the extent no default under the Loan Documents or Event of Default then exists or would be caused thereby; (vi) purchases of Equity Interests of Borrower pledged as collateral for loans to employees in the ordinary course of business to the extent no Event of Default then exists or would be caused thereby; (vii) purchases of Equity Interests of Borrower in connection with (A) the exercise of warrants, stock options or stock appreciation rights of Borrower by way of cashless (or "net") exercise, or (B) the satisfaction of withholding tax obligations, in each case of this clause (vii), to the extent no Event of Default then exists or would be caused thereby; (viii) cash payments in lieu of the issuance of fractional shares upon exercise, conversion or exchange of warrants, stock option or convertible securities of Borrower to the extent no Event of Default then exists or would be caused thereby; and (ix) the purchase of any Permitted Equity Derivatives and any settlement, unwinding or other termination of any Permitted Equity Derivatives to the extent no default under the Loan Documents or Event of Default then exists or would be caused thereby or (b) directly or indirectly make any loan, advance, investment, payment or capital contribution to its Subsidiaries or Joint Ventures (other than Permitted Investments), unless such Subsidiary or Joint Venture provides a Guaranty in form and substance satisfactory to RP and the Lenders.

Section 7.8 Transactions with Affiliates. Directly or indirectly enter into or permit to exist any material transaction with any Affiliate of Borrower or any of its Subsidiaries, except for (a) transactions that are in the ordinary course of Borrower's or such Subsidiary's business, upon fair and reasonable terms that are no less favorable to Borrower or such Subsidiary than would be obtained in an arm's length transaction with a non-affiliated Person, (b) equity investments by Borrower's investors in Borrower, (c) reasonable and customary fees paid to members of Borrower's or a Subsidiary's Board of Directors in the ordinary course of business; (d) transactions among Loan Parties and transactions among Subsidiaries that are not Loan Parties, in each case, so long as such transactions are Permitted Investments and are incurred in the ordinary course of business, and (e) employment arrangements in the ordinary course of business.

Section 7.9 Compliance. Become an "investment company" or a company controlled by an "investment company", under the Investment Company Act of 1940, as amended, or undertake as one of its important activities extending credit to purchase or carry margin stock (as defined in Regulation U of the Board of Governors of the Federal Reserve System), or use the proceeds of any Credit Extension for that purpose; fail to meet the minimum funding requirements of ERISA in excess of [*], permit a Reportable Event or Prohibited Transaction, as defined in ERISA, to occur; fail to comply with the Federal Fair Labor Standards Act or violate any other law or regulation, if the violation could reasonably be expected to have a Material Adverse Change, or permit any of its Subsidiaries to do so; withdraw or permit any Subsidiary to withdraw from participation in, permit partial or complete termination of, or permit the occurrence of any other event with respect to, any present pension, profit sharing and deferred compensation plan which could reasonably be expected to result in any liability of Borrower or any of its Subsidiaries, including any liability to the Pension Benefit Guaranty Corporation or its successors or any other Governmental Authority.

Section 7.10 Compliance with Anti-Terrorism Laws. The Lenders hereby notify Borrower and each of its Subsidiaries that pursuant to the requirements of Anti-Terrorism Laws, and the Lenders' policies and practices, the Lenders are required to obtain, verify and record certain information and documentation that identifies Borrower and each of its Subsidiaries and their principals, which information includes the name and address of Borrower and each of its Subsidiaries and their principals and such other information that will allow the Lenders to identify such party in accordance with Anti-Terrorism Laws. Neither Borrower nor any of its Subsidiaries shall, nor shall Borrower or any of its Subsidiaries permit any Affiliate to, directly or indirectly, knowingly enter into any documents, instruments, agreements or contracts with any Person listed on the OFAC Lists. Borrower and each of its Subsidiaries shall immediately notify RP and the Lenders if Borrower or such Subsidiary has Knowledge that Borrower, or any Subsidiary or Affiliate of Borrower, is listed on the OFAC Lists or (a) is convicted on, (b) pleads *nolo contendere* to, (c) is indicted on, or (d) is arraigned and held over on charges involving money laundering or predicate crimes to money laundering. Neither Borrower nor any of its Subsidiaries shall, nor shall Borrower or any of its Subsidiaries permit any Affiliate to, directly or indirectly, (i) conduct any business or engage in any transaction or dealing with any Blocked Person, including, without limitation, the making or receiving of any contribution of funds, goods or services to or for the benefit of any Blocked Person, (ii) deal in, or otherwise engage in any transaction relating to, any property or interests in property blocked pursuant to Executive Order No. 13224 or any similar executive order or other Anti-Terrorism Law, or (iii) engage in or conspire to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in Executive Order No. 13224 or other Anti-Terrorism Law.

ARTICLE 8

EVENTS OF DEFAULT

Any one of the following shall constitute an event of default (an "**Event of Default**") under this Agreement:

Section 8.1 Payment Default. Borrower fails to (a) make any payment of principal or interest on any Credit Extension on its due date, or (b) pay any other Obligations within three (3) Business Days after such Obligations are due and payable (which three (3) Business Day grace period shall not apply to payments due on the Maturity Date or the date of acceleration pursuant to Section 9.1(a) hereof). During the cure period, the failure to cure the payment default is not an Event of Default (but no Credit Extension will be made during the cure period);

Section 8.2 Covenant Default.

(a) (i) Borrower or any Loan Party violates any covenant in Section 6.2(a)(i), 6.2(a)(ii) or 6.2(a)(iii), Section 6.4 (Taxes) or Article 7, (ii) Borrower or any Loan Party violates the last sentence of Section 6.9 (Notice of Default) or (iii) Borrower or any Loan Party fails or neglects to perform any obligation in Sections 6.2 (Financial Statements, Reports, Certificates) (other than Section 6.2(a)(i), 6.2(a)(ii) or 6.2(a)(iii)), Section 6.5 (Insurance), Section 6.9 (Notice of Litigation and Default) (other than the last sentence thereof) or Section 6.10 (Further Assurances) and, solely in the case of this clause (a)(iii), Borrower has failed to cure such default within 10 days after notice from RP or any Lender; or

(b) Borrower or any Loan Party fails or neglects to perform, keep, or observe any other term, provision, condition, covenant or agreement contained in this Agreement or any Loan Documents, and as to any default (other than those specified in this Article 8) under such other term, provision, condition, covenant or agreement that can be cured, has failed to cure the default within 30 days after the occurrence thereof; provided, however, that if the default cannot by its nature be cured within the 30 day period or cannot after diligent attempts by Borrower be cured within such 30 day period, and such default is likely to be cured within a reasonable time, then Borrower shall have an additional period (which shall not in any case exceed 45 days) to attempt to cure such default, and within such reasonable time period the failure to cure the default shall not be deemed an Event of Default (but no Credit Extensions shall be made during such cure period). Grace periods provided under this Section shall not apply, among other things, to covenants set forth in subsection (a) above;

Section 8.3 [Reserved];

Section 8.4 Attachment; Levy; Restraint on Business. (a) Any material portion of Borrower's or any of its Subsidiaries' assets is attached, seized, levied on, or comes into possession of a trustee or receiver, or (b) any court order enjoins, restrains, or prevents Borrower or any of its Subsidiaries from conducting any material part of its business;

Section 8.5 Insolvency. (a) Borrower, taken together with its Subsidiaries, is or becomes Insolvent; (b) Borrower or any of its Subsidiaries begins an Insolvency Proceeding; or (c) an Insolvency Proceeding is begun against Borrower or any of its Subsidiaries and not dismissed or stayed within forty-five (45) days (but no Credit Extensions shall be made while Borrower or any Subsidiary is Insolvent and/or until any Insolvency Proceeding is dismissed);

Section 8.6 Other Agreements. There is a default in any agreement to which Borrower or any of its Subsidiaries is a party with a third party or parties resulting in a right by such third party or parties, whether or not exercised, to accelerate the maturity of any Indebtedness in an amount in excess of [*] or that could reasonably be expected to have a Material Adverse Change; provided, however, that the Event of Default under this Section 8.6 caused by the occurrence of a breach or default under such other agreement shall be cured or waived for purposes of this Agreement upon RP receiving written notice from the party asserting such breach or default of such cure or waiver of the breach or default under such other agreement, if at the time of such cure or waiver under such other agreement (x) RP or any Lender has not declared an Event of Default under this Agreement and/or exercised any rights with respect thereto; (y) any such cure or waiver does not result in an Event of Default under any other provision of this Agreement or any Loan Document; and (z) in connection with any such cure or waiver under such other agreement, the terms of any agreement with such third party are not modified or amended in any manner which could in the good faith business judgment of RP be materially less advantageous to Borrower; provided, further, that this Section 8.6 shall not apply to (A) any secured Indebtedness that becomes due solely as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness if (x) such sale or transfer is permitted hereunder and under the documents providing for such Indebtedness and (y) repayments are timely made as required by the terms of the respective Indebtedness, and (B) any Indebtedness of any Person that is being acquired by Borrower or any Subsidiary (to the extent such acquisition is not prohibited by the terms of this Agreement) that becomes due as a result of such acquisition so long as such Indebtedness is timely repaid as required by the terms thereof;

Section 8.7 Judgments. One or more judgments, orders, or decrees for the payment of money in an amount, individually or in the aggregate, of at least [*] (not covered by independent third-party insurance as to which liability has been accepted in full by such insurance carrier) shall be rendered against Borrower or any of its Subsidiaries and shall remain unsatisfied, unvacated, or unstayed for a period of thirty (30) days after the entry thereof (provided that no Credit Extensions will be made prior to the satisfaction, vacation, or stay of such judgment, order or decree);

Section 8.8 Misrepresentations. Borrower or any of its Subsidiaries or any Person acting for Borrower or any of its Subsidiaries makes any representation, warranty, or other statement now or later in this Agreement, any Loan Document or in any writing delivered to RP and/or Lenders or to induce RP and/or the Lenders to enter this Agreement or any Loan Document, and such representation, warranty, or other statement is incorrect in any material respect when made; or

Section 8.9 Marketing Approvals. Any Marketing Approval of either Product from the FDA or the EMA shall have been revoked, rescinded, suspended, modified in an adverse manner, or not renewed in the ordinary course for a full term *and* such revocation, rescission, suspension, modification or non-renewal has resulted in or could reasonably be expected to result in a Material Adverse Change.

Section 8.10 Delisting. Other than in connection with a Change of Control, the shares of common stock of Borrower are delisted from The NASDAQ Stock Market because of either (a) a voluntary delisting or (b) a failure to comply with continued listing standards thereof, in either case which results in such shares not being listed on any other nationally recognized stock exchange in the United States.

Section 8.11 Purchase Agreement and 2017 PA Amendment. A default shall occur in the payment when due in respect of any of Borrower's obligations under the Purchase Agreement or the 2017 PA Amendment and such default continues for fifteen (15) Business Days after the receipt by the Borrower of written notice thereof by Royalty Pharma Investments 2019 ICAV, RPI Finance Trust or a Lender (or, in each case, any assignee or transferee thereof); provided that such fifteen (15) Business Day period shall not commence at any time in which the non-payment is subject to a good faith dispute of the Borrower that is actively and continuously being pursued and negotiated.

ARTICLE 9

RIGHTS AND REMEDIES

Section 9.1 Rights and Remedies.

(a) Upon the occurrence and during the continuance of an Event of Default, RP may, without notice or demand, do any or all of the following: (i) deliver notice of the Event of Default to Borrower, or (ii) by notice to Borrower declare all Obligations (including, without limitation and without duplication, the Regular Default Payment) immediately due and payable and terminate all Commitments (but if an Event of Default described in Section 8.5 occurs, all Obligations (including, without limitation and without duplication, the Specified Default Payment) shall be immediately due and payable and all Commitments shall immediately terminate without any notice or action by RP or the Lenders) or (iii) by notice to Borrower suspend or terminate the obligations, if any, of the Lenders to advance money or extend credit for Borrower's benefit under this Agreement or any other Loan Document (but if an Event of Default described in Section 8.5 occurs, all obligations, if any, of the Lenders to advance money or extend credit for Borrower's benefit under this Agreement or any other Loan Document shall immediately terminate without any action by RP or the Lenders).

(b) Without limiting the rights of RP and the Lenders set forth in Section 9.1(a) above, upon the occurrence and during the continuance of an Event of Default, RP shall have the right, without notice or demand, commence and prosecute an Insolvency Proceeding or consent to Borrower commencing any Insolvency Proceeding.

(c) Without limiting the rights of RP and the Lenders set forth in Sections 9.1(a) and (b) above, upon the occurrence and during the continuance of an Event of Default, RP shall have the right, without notice or demand, to exercise all rights and remedies available to RP and each Lender under the Loan Documents or at law or equity.

Section 9.2 Application of Payments and Proceeds. Notwithstanding anything to the contrary contained in this Agreement, upon the occurrence and during the continuance of an Event of Default, Borrower irrevocably waives the right to direct the application of any and all payments at any time or times thereafter received by RP from or on behalf of Borrower or any of its Subsidiaries of all or any part of the Obligations, and, as between Borrower on the one hand and RP and Lenders on the other, RP shall have the continuing and exclusive right to apply and to reapply any and all payments received against the Obligations in such manner as RP may deem advisable notwithstanding any previous application by RP. RP, or if applicable, each Lender, shall promptly remit to the other Lenders such sums as may be necessary to ensure the ratable repayment of each Lender's portion of any Term Loan and the ratable distribution of interest, fees and reimbursements paid or made by Borrower. Notwithstanding the foregoing, a Lender receiving a scheduled payment shall not be responsible for determining whether the other Lenders also received their scheduled payment on such date; provided, however, if it is later determined that a Lender received more than its ratable share of scheduled payments made on any date or dates, then such Lender shall remit to the Lenders such sums as may be necessary to ensure the ratable payment of such scheduled payments, as instructed by RP. If any payment or distribution of any kind or character, whether in cash, properties or securities, shall be received by a Lender in excess of its ratable share, then the portion of such payment or distribution in excess of such Lender's ratable share shall be received by such Lender in trust for and shall be promptly paid over to the other Lender for application to the payments of amounts due on the other Lenders' claims. To the extent any payment for the account of Borrower is required to be returned as a voidable transfer or otherwise, the Lenders shall contribute to one another as is necessary to ensure that such return of payment is on a pro rata basis.

Section 9.3 No Waiver; Remedies Cumulative. Failure by RP or any Lender, at any time or times, to require strict performance by Borrower of any provision of this Agreement or any other Loan Document shall not waive, affect, or diminish any right of RP or any Lender thereafter to demand strict performance and compliance herewith or therewith. No waiver hereunder shall be effective unless signed by RP and the Required Lenders and then is only effective for the specific instance and purpose for which it is given. The rights and remedies of RP and the Lenders under this Agreement and the other Loan Documents are cumulative. RP and the Lenders have all rights and remedies provided under the Code, any applicable law, by law, or in equity. The exercise by RP or any Lender of one right or remedy is not an election, and RP's or any Lender's waiver of any Event of Default is not a continuing waiver. RP's or any Lender's delay in exercising any remedy is not a waiver, election, or acquiescence.

Section 9.4 Demand Waiver. Borrower waives, to the fullest extent permitted by law, demand, notice of default or dishonor, notice of payment and nonpayment, notice of any default, nonpayment at maturity, release, compromise, settlement, extension, or renewal of accounts, documents, instruments, chattel paper, and guarantees held by RP or any Lender on which Borrower or any Subsidiary is liable.

ARTICLE 10

NOTICES

All notices, consents, requests, approvals, demands, or other communication (collectively, "**Communication**") by any party to this Agreement or any other Loan Document must be in writing and shall be deemed to have been validly served, given, or delivered: (a) upon the earlier of actual receipt and three (3) Business Days after deposit in the U.S. mail, first class, registered or certified mail return receipt requested, with proper postage prepaid; (b) upon transmission, when sent by electronic mail transmission with an acknowledgement of receipt being produced by the recipient's email account; (c) one (1) Business Day after deposit with a reputable overnight courier with all charges prepaid; or (d) when delivered, if hand-delivered by messenger, all of which shall be addressed to the party to be notified and sent to the address or electronic mail address indicated below. Any of RP, Lender or Borrower may change its mailing address or electronic mail address by giving the other party written notice thereof in accordance with the terms of this Article 10. So long as the Lenders consist of RP and/or Affiliates of RP, any notice, report or other information required to be delivered to the Lenders under this Agreement or any other Loan Document shall be deemed delivered upon delivery of such notice, report or such other information to RP.

If to Borrower:

CYTOKINETICS, INCORPORATED
350 Oyster Point Boulevard
South San Francisco, CA 94080
Attn: General Counsel
Email: [*]

with a copy (which shall not constitute notice) to:

Cooley LLP
3 Embarcadero Center, 20th Floor
San Francisco, CA 94111
Attention: Gian-Michele a Marca
Email: [*]

If to RP:

ROYALTY PHARMA DEVELOPMENT FUNDING, LLC
110 E. 59th Street, Suite 3300
New York, NY 10022
Attention: George Lloyd
Email: [*]

with a copy (which shall not constitute notice) to:

Goodwin Procter
100 Northern Avenue
Boston, MA 02210
Attn: Arthur McGivern, Jacqueline Mercier and Kristopher Ring
Email: [*]

ARTICLE 11

CHOICE OF LAW, VENUE AND JURY TRIAL WAIVER, AND JUDICIAL REFERENCE

Section 11.1 GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT GIVING EFFECT TO ANY CHOICE OR CONFLICT OF LAW PROVISION OR RULE THAT WOULD CAUSE THE APPLICATION OF THE LAWS OF ANY OTHER JURISDICTION.

Section 11.2 JURISDICTION; VENUE.

(a) EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS RESPECTIVE PROPERTY AND ASSETS, TO THE EXCLUSIVE JURISDICTION OF ANY NEW YORK STATE COURT OR FEDERAL COURT OF THE UNITED STATES OF AMERICA SITTING IN NEW YORK COUNTY, NEW YORK, AND ANY APPELLATE COURT THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT, OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT IN RESPECT THEREOF, AND THE BORROWER AND ITS SUBSIDIARIES HEREBY IRREVOCABLY AND UNCONDITIONALLY AGREE THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN ANY SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. THE BORROWER AND ITS SUBSIDIARIES HEREBY AGREE THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY APPLICABLE LAW. EACH OF THE BORROWER AND ITS SUBSIDIARIES HEREBY SUBMITS TO THE EXCLUSIVE PERSONAL JURISDICTION AND VENUE OF SUCH NEW YORK STATE AND FEDERAL COURTS. THE BORROWER AND ITS SUBSIDIARIES AGREE, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THAT PROCESS MAY BE SERVED ON THE BORROWER AND ITS SUBSIDIARIES IN THE SAME MANNER THAT NOTICES MAY BE GIVEN PURSUANT TO ARTICLE 10 HEREOF.

(b) EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT IT MAY LEGALLY AND EFFECTIVELY DO SO, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT IN ANY NEW YORK STATE OR FEDERAL COURT. EACH OF THE BORROWER AND ITS SUBSIDIARIES HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

ARTICLE 12

GENERAL PROVISIONS

Section 12.1 Successors and Assigns. This Agreement binds and is for the benefit of the successors and permitted assigns of each party. Borrower may not transfer, pledge or assign this Agreement or any rights or obligations under it without RP's and each Lender's prior written consent (which may be granted or withheld in RP's and each Lender's discretion, subject to Section 12.6). The Lenders have the right, without the consent of or notice to Borrower, to sell, transfer, assign, pledge, negotiate, or grant participation in (any such sale, transfer, assignment, negotiation**,** or grant of a participation, a "**Lender Transfer**") all or any part of, or any interest in, the Lenders' obligations, rights, and benefits under this Agreement, any Promissory Note and the other Loan Documents, except that RP shall not be permitted to assign its remaining Commitments when no Event of Default pursuant to Sections 8.1, 8.2(a), 8.4, 8.5, 8.10 or 8.11 has occurred and is continuing other than to an Affiliate or related or managed fund thereof, and in the case of any such assignment to such an Affiliate or related or managed fund, RP shall continue to remain obligated with respect to any remaining Commitments until such time as such applicable Commitment terminates, expires, is used or is exhausted**. [*]**.

Section 12.2 Indemnification. Borrower agrees to indemnify, defend and hold RP and the Lenders and their respective directors, officers, employees, agents, attorneys, or any other Person affiliated with or representing RP or the Lenders (each, an "**Indemnified Person**") harmless against: (a) all obligations, demands, claims, and liabilities (collectively, "**Claims**") asserted by any other party in connection with; related to; following; or arising from, out of or under, the transactions contemplated by the Loan Documents; and (b) all losses or Lenders' Expenses incurred, or paid by Indemnified Person in connection with; related to; following; or arising from, out of or under, the transactions contemplated by the Loan Documents between RP, and/or the Lenders and Borrower (including reasonable attorneys' fees and expenses), except for Claims and/or losses directly caused by such Indemnified Person's gross negligence or willful misconduct. Borrower hereby further indemnifies, defends and holds each Indemnified Person harmless from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, claims, costs, expenses and disbursements of any kind or nature whatsoever (including the fees and disbursements of counsel for such Indemnified Person) in connection with any investigative, response, remedial, administrative or judicial matter or proceeding, whether or not such Indemnified Person shall be designated a party thereto and including any such proceeding initiated by or on behalf of Borrower, and the reasonable expenses of investigation by engineers, environmental consultants and similar technical personnel and any commission, fee or compensation claimed by any broker (other than any broker retained by RP or Lenders) asserting any right to payment for the transactions contemplated hereby which may be imposed on, incurred by or asserted against such Indemnified Person as a result of or in connection with the transactions contemplated hereby and the use or intended use of the proceeds of the loan proceeds except for liabilities, obligations, losses, damages, penalties, actions, judgments, suits, claims, costs, expenses and disbursements directly caused by such Indemnified Person's gross negligence or willful misconduct.

Section 12.3 [*]

Section 12.4 Severability of Provisions. If any term or provision of this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any situation in any jurisdiction, then, to the extent that the economic and legal substance of the transactions contemplated hereby is not affected in a manner that is materially adverse to either party hereto, all other terms and provisions of this Agreement shall nevertheless remain in full force and effect and the enforceability and validity of the offending term or provision shall not be affected in any other situation or jurisdiction.

Section 12.5 [Reserved].

Section 12.6 Amendments in Writing; Integration. (a) No amendment, modification, termination or waiver of any provision of this Agreement or any other Loan Document, no approval or consent thereunder, or any consent to any departure by Borrower or any of its Subsidiaries therefrom, shall in any event be effective unless the same shall be in writing and signed by Borrower, RP and the Required Lenders provided that:

(i) no such amendment, waiver or other modification that would have the effect of increasing or reducing a Lender's Term Loan Commitment or Commitment Percentage shall be effective as to such Lender without such Lender's written consent;

(ii) no such amendment, waiver or modification that would affect the rights and duties of RP shall be effective without RP's written consent or signature;

(iii) no such amendment, waiver or other modification shall, unless signed by all the Lenders directly affected thereby, (A) reduce the principal of, rate of interest on or any fees with respect to any Term Loan or forgive any principal, interest (other than default interest) or fees (other than late charges) with respect to any Term Loan (B) postpone the date fixed for, or waive, any payment of principal of any Term Loan or of interest on any Term Loan (other than default interest) or any fees provided for hereunder (other than late charges or for any termination of any commitment); (C) change the definition of the term "**Required Lenders**" or the percentage of Lenders which shall be required for the Lenders to take any action hereunder; (D) amend, waive or otherwise modify this Section 12.6 or the definitions of the terms used in this Section 12.6 insofar as the definitions affect the substance of this Section 12.6; (E) consent to the assignment, delegation or other transfer by Borrower of any of its rights and obligations under any Loan Document or release Borrower of its payment obligations under any Loan Document, except, in each case with respect to this clause (E), pursuant to a merger or consolidation permitted pursuant to this Agreement; (F) amend any of the provisions of Section 9.2 or amend any of the definitions of Pro Rata Share, Term Loan Commitment, Commitment Percentage or that provide for the Lenders to receive their Pro Rata Shares of any fees, payments or setoffs hereunder; or (G) amend any of the provisions of Section 12.10. It is hereby understood and agreed that all Lenders shall be deemed directly affected by an amendment, waiver or other modification of the type described in the preceding clauses (C), (D), (E), (F), (F) and (G) of the preceding sentence;

(iv) the provisions of the foregoing clauses (i), (ii) and (iii) are subject to the provisions of any interlender or agency agreement among the Lenders and RP pursuant to which any Lender may agree to give its consent in connection with any amendment, waiver or modification of the Loan Documents only in the event of the unanimous agreement of all Lenders.

(b) Other than as expressly provided for in Section 12.6(a)(i)-(iii), RP may, if requested by the Required Lenders, from time to time designate covenants in this Agreement less restrictive by notification to a representative of Borrower.

(c) This Agreement and the Loan Documents represent the entire agreement about this subject matter and supersede prior negotiations or agreements. All prior agreements, understandings, representations, warranties, and negotiations between the parties about the subject matter of this Agreement and the Loan Documents merge into this Agreement and the Loan Documents.

Section 12.7 Counterparts. This Agreement may be executed in any number of counterparts and by different parties on separate counterparts, each of which, when executed and delivered, is an original, and all taken together, constitute one Agreement.

Section 12.8 Survival. All covenants, representations and warranties made in this Agreement continue in full force and effect until this Agreement has terminated pursuant to its terms and all Obligations (other than inchoate indemnity obligations and any other obligations which, by their terms, are to survive the termination of this Agreement) have been satisfied. The obligation of Borrower in Section 12.2 to indemnify each Lender and RP, as well as the confidentiality provisions in Article 13 below, shall survive until the statute of limitations with respect to such claim or cause of action shall have run.

Section 12.9 [Reserved].

Section 12.10 Cooperation of Borrower. If necessary, Borrower agrees to (i) execute any documents (including new Promissory Notes) reasonably required to effectuate and acknowledge each assignment of a Term Loan Commitment or Term Loan to an assignee in accordance with Section 12.1, (ii) make Borrower's management available to meet with RP and prospective participants and assignees of Term Loan Commitments or Credit Extensions (which meetings shall be conducted no more often than twice every twelve months unless an Event of Default has occurred and is continuing) during normal business hours and upon reasonable prior written notice (unless an Event of Default has occurred and is continuing), and (iii) assist RP or the Lenders in the preparation of information relating to the financial affairs of Borrower as any prospective participant or assignee of a Term Loan Commitment or Term Loan reasonably may request. Subject to the confidentiality provisions in Article 13, Borrower authorizes each Lender to disclose to any prospective participant or assignee of a Term Loan Commitment, any and all information in such Lender's possession concerning Borrower and its financial affairs which has been delivered to such Lender by or on behalf of Borrower pursuant to this Agreement, or which has been delivered to such Lender by or on behalf of Borrower in connection with such Lender's credit evaluation of Borrower prior to entering into this Agreement.

ARTICLE 13

CONFIDENTIALITY

Section 13.1 Confidentiality. Except to the extent expressly authorized by this Agreement or otherwise agreed in writing by the parties, the parties hereto agree that, for the term of this Agreement and for [*], each Lender shall keep confidential and shall not publish or otherwise disclose to Third Parties and shall not use for any purpose other than (I) to monitor, administer and enforce this Agreement and (II) as otherwise provided for in this Agreement or any other Loan Document (which includes the exercise of any rights or the performance of any obligations hereunder) any information furnished to it by or on behalf of the Loan Parties directly relating to the transactions contemplated hereunder and delivered pursuant to this Agreement (such information, "**Confidential Information**" of the Loan Parties), except for that portion of such information that:

(a) was already known to such Lender, other than under an obligation of confidentiality, at the time of disclosure by the Loan Parties;

(b) was generally available to the public or otherwise part of the public domain at the time of its disclosure to such Lender;

(c) became generally available to the public or otherwise part of the public domain after its disclosure, other than through any act or omission of such Lender or its Representatives in breach of this Agreement;

(d) is independently developed by such Lender or any of its Affiliates, as evidenced by written records, without the use or reference of the Confidential Information;

(e) was disclosed to such Lender, other than under an obligation of confidentiality by a Third Party who had no obligation to such Lender not to disclose such information to others; or

(f) is subsequently disclosed to such Lender on a non-confidential basis by a Third Party without obligations of confidentiality with respect thereto.

Section 13.2 Authorized Disclosure. Any Lender may disclose Confidential Information to the extent such disclosure is reasonably necessary in the following situations:

(a) prosecuting or defending litigation;

(b) complying with applicable laws and regulations, including regulations promulgated by a global stock market or securities exchanges;

(c) complying with a valid order of a court of competent jurisdiction or other governmental entity;

(d) disclosure to its Representatives for the sole purpose of enabling such Representatives to provide advice to such Lender on a need-to-know basis, provided that each of such recipients of Confidential Information must be bound by customary obligations of confidentiality and non-use at least as stringent as those imposed upon the parties pursuant to Section 13.1 prior to any such disclosure;

(e) upon the prior written consent of the Loan Parties;

(f) prospective Lenders or participants, subject to such Persons agreeing to be bound by the provisions of this Article 13;

(g) in connection with exercising rights or remedies under the Loan Documents, the Purchase Agreement, the 2017 PA Amendment or any related documents; or

(h) disclosure to actual and potential acquirors, investors and other sources of funding, including underwriters, debt financing, royalty financing partners, or co-investors, and their respective attorneys, accountants, consultants, financial advisors and other professional representatives ("**Financial Advisors**"); provided, that such disclosure shall be made only to the extent customarily required to consummate such investment, financing transaction, funding transaction or acquisition and that each recipient of Confidential Information must be bound by customary obligations of confidentiality prior to any such disclosure; provided that, in the event such Lender is required to make a disclosure of the Confidential Information of the Loan Parties pursuant to Sections 13.2(b), or (c), it will, except where impracticable (or prohibited), give reasonable advance written notice to the Loan Parties of such disclosure and use reasonable efforts to secure confidential treatment of such information.

Each Lender shall be liable to the Loan Parties for any breach by its Affiliates or Representatives, if any such Person violates the terms of its confidentiality obligation or any of the terms set forth in this Agreement as if such Person was a party hereto.

Each Lender hereby acknowledges that Borrower may from time to time provide such Lender with information that may constitute material non-public information with respect to itself and Licensees. Borrower makes no representation or warranty and assumes no duty to inform any Lender whether any information delivered to such Lender pursuant to this Agreement constitutes material non-public information. Each Lender hereby agrees that it shall not, and shall cause its Affiliates or Representatives to not, trade any securities of Borrower while in possession of any information received by it from Borrower pursuant to this Agreement, in each case, in violation of applicable securities laws.

ARTICLE 14

DEFINITIONS

As used in this Agreement, the following terms have the following meanings:

"**2017 PA**" is defined in Section 3.1(j).

"**2017 PA Amendment**" is defined in Section 3.1(j).

"**Affiliate**" of any Person is a Person that owns or controls directly or indirectly the Person, any Person that controls or is controlled by or is under common control with the Person, and each of that Person's senior executive officers, directors, partners and, for any Person that is a limited liability company, that Person's managers and members.

"**aficamten**" means any pharmaceutical that contains the Borrower's proprietary small molecule cardiac myosin inhibitor product, referred to as *aficamten* (also formerly known as CK-274), and any current or future forms thereof, including any reformulations, prodrugs, metabolites, racemates, deuterated forms, pharmaceutical hydrates, solvates, salts, crystalline, bases, esters, isomers, optical isomers, or polymorphs thereof, in any strength, form, formulation, regimen, administration or delivery route.

"**AFPA Applicable Fees**" means, with respect to any Term Loan, the amount equal to (a) the Applicable Final Payment Amount for such Term Loan, minus (b) the sum of (i) the outstanding principal amount of such Term Loan and (ii) unpaid (accrued or not accrued) interest of such Term Loan at the rate set forth in Section 2.3(a) (and, for the avoidance of doubt, without giving effect to any Default Rate applicable pursuant to Section 2.3(b)).

"**Agreement**" is defined in the preamble hereof.

"**Annual Projections**" is defined in Section 6.2(a).

"**Anti-Terrorism Laws**" are any laws relating to terrorism or money laundering, including Executive Order No. 13224 (effective September 24, 2001), the USA PATRIOT Act, the laws comprising or implementing the Bank Secrecy Act, and the laws administered by OFAC.

"**APA Applicable Fees**" means, with respect to any Term Loan, the amount equal to (a) the Applicable Payment Amount for such Term Loan, minus (b) the sum of (i) the outstanding principal amount of such Term Loan and (ii) unpaid (accrued or not accrued) interest of such Term Loan at the rate set forth in Section 2.3(a) (and, for the avoidance of doubt, without giving effect to any Default Rate applicable pursuant to Section 2.3(b)).

"**Applicable Final Payment Amount**" is defined in Schedule 2.2(c) to this Agreement.

"**Applicable Multiplier Amount**" means, with respect to each Term Loan made by the applicable Lenders, (a) the principal amount of such Term Loan at the time initially made by such Lenders, divided by (b) 25,000,000. For the avoidance of doubt, the minimum amount that any Applicable Multiplier Amount may be is 1.

"**Applicable Payment Amount**" means (a) in all instances and circumstances other than pursuant to clause (b) and clause (c) directly below, the Final Payment, (b) upon an acceleration pursuant to Section 9.1(a) following the occurrence of an Event of Default other than an Event of Default of a type described in Section 8.5, the Regular Default Payment or, (c) upon an acceleration pursuant to Section 9.1(a) following the occurrence of an Event of Default of a type described in Section 8.5, the Specified Default Payment, in each case, as applicable.

"**Blocked Person**" is any Person: (a) listed in the annex to, or is otherwise subject to the provisions of, Executive Order No. 13224, (b) a Person owned or controlled by, or acting for or on behalf of, any Person that is listed in the annex to, or is otherwise subject to the provisions of, Executive Order No. 13224, (c) a Person with which any Lender is prohibited from dealing or otherwise engaging in any transaction by any Anti-Terrorism Law, (d) a Person that commits, threatens or conspires to commit or supports "terrorism" as defined in Executive Order No. 13224, or (e) a Person that is named a "specially designated national" or "blocked person" on the most current list published by OFAC or other similar list.

"**Borrower**" is defined in the preamble hereof.

"**Borrower's Books**" are Borrower's or any of its Subsidiaries' books and records including ledgers, federal, and state tax returns, records regarding Borrower's or its Subsidiaries' assets or liabilities, business operations or financial condition, and all computer programs or storage or any equipment containing such information.

"**Business Day**" is any day that is not a Saturday, Sunday or legal holiday on which banks in San Francisco, California and New York, New York, are open for the conduct of their commercial banking business.

"**Cash Management Obligations**" means obligations (in each case, except for business credit cards and overdraft protection, to the extent not constituting a line of credit) in respect of treasury, depository, overdraft, cash pooling, credit or debit cards (including non-card electronic payables), credit card processing services, electronic funds transfer (including automated clearing house funds transfers), and other cash management arrangements, in each case, entered into in the ordinary course of business of the Borrower.

"**Change of Control**" means (a) the occurrence of a consolidation, merger, exchange of shares, recapitalization, reorganization, business combination or other similar event, following which the holders of the stock of Borrower immediately preceding such consolidation, merger, exchange, recapitalization, reorganization, combination or event either (i) no longer hold a majority of the shares of the stock of Borrower or (ii) no longer have the ability to elect a majority of the board of directors of the Borrower, (b) any "person" or "group" (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act) is or shall at any time become the "beneficial owner" (as defined in Rules 13(d)-3 and 13(d)-5 under the Securities Exchange Act of 1934, as amended), directly or indirectly, of [*] % or more on a fully diluted basis of the voting interests in the Borrower's stock, (c) a sale of all or substantially all of the assets of the Borrower and its Subsidiaries taken as a whole, or (d) a "change of control" however so defined in any document, agreement or instrument governing or evidencing any Indebtedness in excess of $[*] or, in each case, any term of similar effect, shall occur.

"**Claims**" are defined in Section 12.2.

"**Co-Commercialization Agreement**" means any agreement to which Borrower or any of its Subsidiaries is a party pursuant to which [*].

"**Code**" is the Internal Revenue Code of 1986, as amended.

"**Commercialize**" or "**Commercialization**" or "**Commercializing**" means any and all activities directed to exclusive licensing, marketing, promoting, distributing, importing, exporting, offering to sell, or selling a product, including commercial manufacturing activities.

"**Commitment**" and "**Commitments**" have the respective meanings set forth in Section 2.2.

"**Commitment Percentage**" is set forth in Schedule 1.1, as amended from time to time.

"**Communication**" is defined in Article 10.

"**Confidential Information**" is defined in Section 13.1.

"**Consolidated Total Assets**" means, as of any date of determination, the amount that would, in conformity with GAAP, be set forth opposite the caption "total assets" (or any like caption) on the most recent consolidated balance sheet of the Borrower and its Subsidiaries delivered to the Lenders pursuant to Section 6.2(a) at such date.

"**Contingent Obligation**" is, for any Person, any direct or indirect liability, contingent or not, of that Person for (a) any indebtedness, lease, dividend, letter of credit or other obligation of another such as an obligation directly or indirectly guaranteed, endorsed, co-made, discounted or sold with recourse by that Person, or for which that Person is directly or indirectly liable; (b) any obligations for undrawn letters of credit for the account of that Person; and (c) all obligations from any interest rate, currency or commodity swap agreement, interest rate cap or collar agreement, or other agreement or arrangement designated to protect a Person against fluctuation in interest rates, currency exchange rates or commodity prices; but "Contingent Obligation" does not include endorsements in the ordinary course of business. The amount of a Contingent Obligation is the stated or determined amount of the primary obligation for which the Contingent Obligation is made or, if not determinable, the maximum reasonably anticipated liability for it determined by the Person in good faith; but the amount may not exceed the maximum of the obligations under any guarantee or other support arrangement.

"**Copyrights**" are any and all copyright rights, copyright applications, copyright registrations and like protections in each work of authorship and derivative work thereof, whether published or unpublished and whether or not the same also constitutes a trade secret.

"**Credit Extension**" is any Term Loan or any other extension of credit by RP or Lenders for Borrower's benefit pursuant to this Agreement or any other Loan Document.

"**Default Rate**" is defined in Section 2.3(b).

"**Develop**" or "**Developing**" means engaging in manufacturing, preclinical, clinical, or other research and development activities (including manufacturing activities related thereto) directed towards obtaining Marketing Approval. "**Development**" means the process of Developing.

"**Disbursement Letter**" is that certain form attached hereto as Exhibit B.

[*]

"**Dollars**," "**dollars**" and "$" each mean lawful money of the United States.

"**Effective Date**" is defined in the preamble of this Agreement.

"**EMA**" means the European Medicines Agency, or any successor agency thereto.

"**Equity Interests**" means, with respect to any Person, any of the shares (including American depositary shares or receipts) or shares of capital stock of (or other ownership, membership or profit interests in) such Person, any of the warrants, options or other rights for the purchase or acquisition from such Person of shares (including American depositary shares or receipts) or shares of capital stock of (or other ownership, membership or profit interests in) such Person, any of the securities convertible into or exchangeable for shares (including American depositary shares or receipts) or shares of capital stock of (or other ownership, membership or profit interests in) such Person or warrants, rights or options for the purchase or acquisition from such Person of such shares (or such other interests), and any of the other ownership, membership or profit interests in such Person (including partnership, member or trust interests therein), whether voting or nonvoting, and whether or not such shares (including American depositary shares or receipts), warrants, options, rights or other interests are outstanding on any date of determination; provided that "**Equity Interests**" shall not include any debt securities and other Indebtedness convertible into or exchangeable for any of the foregoing.

"**ERISA**" is the Employee Retirement Income Security Act of 1974, as amended, and its regulations.

"**Event of Default**" is defined in Article 8.

"**Excluded Product**" means any compound, molecule or other pharmaceutical product developed or licensed by Borrower (or any of its Subsidiaries) that (x) is not a Product, or (y) does not contain or comprise a Product. For the avoidance of doubt, the Excluded Product shall include reldesemtiv, a fast skeletal muscle troponin activator developed by Borrower.

"**Excluded Product Assets**" means, collectively, Borrower's and its Subsidiaries' rights, title and interests in any Excluded Product (including all inventory, raw material and work in progress of such Excluded Product) and product rights solely related to Excluded Products (including, without limitation, (w) any Intellectual Property or other intellectual property rights, (x) regulatory filings, submissions and approvals with or from any regulatory authorities, including any clinical data thereunder, (y) any in-licenses, and (z) out-licenses, in each case, solely related to Excluded Products) owned, licensed or otherwise held by Borrower or any of its Affiliates and any proceeds thereof, including (i) all accounts receivable and payment intangibles solely resulting from the sale, license or other disposition of such Excluded Product by Borrower or its Subsidiaries, (ii) cash and cash equivalents to the extent traceable solely from such sale, license or deposition in the foregoing clause (i), and (iii) any deposit or securities accounts holding such cash and equivalents and/or proceeds of such accounts receivable and payment intangibles in the foregoing clauses (i) and (ii).

"**Excluded Taxes**" means any of the following Taxes imposed on or with respect to a Lender or required to be withheld or deducted from a payment to a Lender, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of such Lender being organized under the laws of, or having its principal office or, in the case of any Lender, its applicable lending office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Lender, U.S. federal withholding Taxes imposed on amounts payable to or for the account of such Lender pursuant to a law in effect on the date on which (i) such Lender acquires such interest in the Term Loan or Term Loan Commitment, or (ii) such Lender changes its lending office, except in each case to the extent that, pursuant to **Error! Reference source not found.**, amounts with respect to such Taxes were payable either to such Lender's assignor immediately before such Lender became a party hereto or to such Lender immediately before it changed its lending office, (c) Taxes attributable to such Lender's failure to comply with the last sentence of **Error! Reference source not found.** and (d) any withholding Taxes imposed under FATCA.

"**Existing Convertible Indebtedness**" is those certain 4.0% convertible senior notes due 2026 issued by Borrower on November 13, 2019 in an aggregate principle amount of $138,000,000, in each case, in the form in effect as of such date.

"**Existing Indebtedness**" is the indebtedness of Borrower to Oxford Finance LLC and Silicon Valley Bank under that certain Loan and Security Agreement, dated May 17, 2019 (as amended from time to time, including by that certain First Amendment to Loan and Security Agreement dated as November 6, 2019, that certain Second Amendment to Loan and Security Agreement dated as November 7, 2019, that certain Third Amendment to Loan and Security Agreement dated as of July 16, 2020, and that certain Fourth Amendment to Loan and Security Agreement dated as of June 30, 2021, entered into by and between Oxford Finance LLC, Silicon Valley Bank and Borrower).

"**FATCA**" means:

(a) sections 1471 to 1474 of the Code or any associated regulations;

(b) any treaty, law or regulation of any other jurisdiction, or relating to an intergovernmental agreement between the US and any other jurisdiction, which (in either case) facilitates the implementation of any law or regulation referred to in clause (a) above; or

(c) any agreement pursuant to the implementation of any treaty, law or regulation referred to in clause (a) or (b) above with the US Internal Revenue Service, the US government or any governmental or taxation authority in any other jurisdiction.

"**FDA**" means the Food and Drug Administration of the United States, or any successor entity thereto.

"**Final Payment**" is, with respect to a Term Loan, a cash payment (in addition to and not a substitution for the regular quarterly payments of principal plus accrued interest) on such Term Loan equal to the sum of (A) the Applicable Final Payment Amount for such Term Loan, plus (B) all Lenders' Expenses (to the extent invoiced prior to the payment of the Final Payment) and all other outstanding Obligations (other than inchoate indemnity and expense reimbursement obligations that have not yet been asserted), and interest at the Default Rate with respect to any past due amounts.

"**Foreign Subsidiary**" is any Subsidiary of Borrower that is not organized in the United States or any state or territory thereof.

"**Funding Date**" is any date on which a Credit Extension is made to or on account of Borrower which shall be a Business Day.

"**GAAP**" is generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other Person as may be approved by a significant segment of the accounting profession in the United States, which are applicable to the circumstances as of the date of determination.

"**Governmental Approval**" is (a) for purposes of Section 6.1(b) and Section 6.10(b), any consent, authorization, approval, order, license, franchise, permit, certificate, accreditation, registration issued by any Governmental Authority and (b) for all other purposes in the Loan Documents (including, without limitation, Section 5.1), any consent, authorization, approval, order, license, franchise, permit, certificate, accreditation, registration, filing or notice, of, issued by, from or to, or other act by or in respect of, any Governmental Authority.

"**Governmental Authority**" is any nation or government, any state or other political subdivision thereof, any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative functions of or pertaining to government, any securities exchange and any self-regulatory organization.

"**Guarantor**" is any Person providing a Guaranty in favor of the Lenders.

"**Guaranty**" is any guarantee of all or any part of the Obligations, as the same may from time to time be amended, restated, modified or otherwise supplemented.

"**Immaterial Foreign Subsidiary**" means, as of any date of determination, any Foreign Subsidiary of Borrower that [*].

"**Immaterial Subsidiary**" means, as of any date of determination, any Subsidiary of Borrower that [*].

"**Indebtedness**" is (a) indebtedness for borrowed money or the deferred price of property or services, such as reimbursement and other obligations for surety bonds and letters of credit, (b) obligations evidenced by notes, bonds, debentures or similar instruments, (c) capital lease obligations, and (d) Contingent Obligations.

"**Indemnified Person**" is defined in Section 12.2.

"**Indemnified Taxes**" means (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of the Borrower under any Loan Document and (b) to the extent not otherwise described in (a), Other Taxes.

"**Insolvency Proceeding**" is any proceeding by or against any Person under the United States Bankruptcy Code, or any other bankruptcy or insolvency law, including assignments for the benefit of creditors, compositions, extensions generally with its creditors, or proceedings seeking reorganization, arrangement, or other relief.

"**Insolvent**" means not Solvent.

"**Intellectual Property**" means all of Borrower's or any Subsidiary's right, title and interest in and to the following:

(a) its Copyrights, Trademarks and Patents;

(b) any and all trade secrets and trade secret rights, including, without limitation, any rights to unpatented inventions, know-how, operating manuals;

(c) any and all source code;

(d) any and all design rights which may be available to Borrower;

(e) any and all claims for damages by way of past, present and future infringement of any of the foregoing, with the right, but not the obligation, to sue for and collect such damages for said use or infringement of the Intellectual Property rights identified above; and

(f) all amendments, renewals and extensions of any of the Copyrights, Trademarks or Patents.

"**Investment**" is any beneficial ownership interest in any Person (including stock, partnership interest, other securities or other Equity Interests), and any loan, advance, payment or capital contribution to any Person.

"**Ji Xing**" means Ji Xing Pharmaceuticals Limited, a company organized under the laws of the Cayman Islands.

"**Ji Xing Collaboration Agreements**" means, collectively, (i) that certain License and Collaboration Agreement, dated as of July 14, 2020, between the Seller and Ji Xing and (ii) that certain License and Collaboration Agreement, dated as of December 20, 2021, between the Seller and Ji Xing, in each case, as amended, restated, supplemented or otherwise modified from time to time.

"**Joint Venture**" is, with respect to any Person, other than any Subsidiary of such Person, any other Person of which at least [*] of the voting stock or other Equity Interests (in the case of Persons other than corporations) is owned or controlled, directly or indirectly, by such Person, its Affiliates or through one or more intermediaries.

"**Knowledge**" is defined in Section 5.12.

"**Lender**" is any one of the Lenders.

"**Lenders**" are the Persons identified on Schedule 1.1 hereto and each assignee or transferee that becomes a party to this Agreement pursuant to Section 12.1.

"**Lenders' Expenses**" are all audit fees and out-of-pocket expenses, costs, and expenses (including reasonable attorneys' fees and expenses, as well as appraisal fees, fees incurred on account of lien searches, inspection fees and filing fees) for preparing, amending, negotiating, administering, defending and enforcing the Loan Documents (including, without limitation, those incurred in connection with appeals or Insolvency Proceedings) or otherwise incurred by the Lenders in connection with the Loan Documents; provided that attorney's fees and expenses for preparing and negotiating the Loan Documents that are incurred prior to the Effective Date shall not be Lenders' Expenses.

"**License**" means a grant of any rights, intellectual property, or Marketing Approvals associated with or covering the Product for making, Developing, Commercializing or otherwise exploiting the Product in the Territory.

"**Licensee**" means a Third Party or an Affiliate of Borrower that is granted a License, regardless of whether such License is granted by Borrower, an Affiliate of Borrower, or another Licensee.

"**Lien**" is a claim, mortgage, deed of trust, levy, charge, pledge, security interest, or other encumbrance on assets, whether voluntarily incurred or arising by operation of law or otherwise against any property.

"**Loan Documents**" are, collectively, this Agreement, each Disbursement Letter, each Promissory Note, any note, or notes or guaranties executed by Borrower or any other Person, and any other present or future agreement entered into by Borrower, any Guarantor or any other Person for the benefit of the Lenders and RP in connection with this Agreement; all as amended, restated, or otherwise modified. For the avoidance of doubt, none of the Purchase Agreement, the 2017 PA Amendment or the 2017 PA (nor any other present or future agreement that is expressly stated in the Purchase Agreement, the 2017 PA Amendment or the 2017 PA to be solely an agreement therefor and not a Loan Document shall constitute Loan Documents.

"**Loan Party**" is each of Borrower and any Subsidiary of Borrower that is a co borrower or Guarantor hereunder.

"**Major European Country**" means each of [*].

"**Market Capitalization**" means, with respect to a Person, as of the date of determination, an amount equal to (i) the total number of issued and outstanding shares of common Equity Interests of such Person on such date multiplied by (ii) the closing prices per share of such common Equity Interests on the principal securities exchange on which such common Equity Interests are traded as of such date (or, if such date is not a trading day for such common Equity Interests, as of the trading day immediately preceding such date).

"**Marketing Approval**" means with respect to a Product in any jurisdiction, approval from the applicable Governmental Authority sufficient for the promotion and sale of such Product in such jurisdiction in accordance with applicable law.

"**Material Adverse Change**" is [*].

"**Maturity Date**" with respect to each Term Loan, the 10-year anniversary of the Funding Date of such Term Loan.

"**Milestone Event**" means the occurrence of any of the following events: (a) Borrower shall have made aggregate payments pursuant to Section 2.2(c) equal to the principal amount of the loans advanced pursuant to Section 2.2(a); or (b) the Market Capitalization of Borrower is at least $[*].

"**NDA**" means a new drug application or a biologics license application, including all supplements and amendments thereto and all necessary documents, data, and other information concerning a product, required for Marketing Approval of the product as a pharmaceutical product.

"**NDA Acceptance**" means the acceptance by the FDA of an NDA for a drug product for filing pursuant to 21 C.F.R. §314.01 (as evidenced by receipt of a "day-74 letter" or equivalent written communication).

"**Non-Default Make Whole Amount**" means, with respect to a Term Loan, as of any date of determination, the result of (i) the Applicable Final Payment Amount with respect to such Term Loan as of such date of determination, minus (ii) the outstanding principal amount of such Term Loan as of such date of determination, as calculated by the Lenders in good faith; provided, however, that the Non-Default Make Whole Amount shall not be less than zero.

"**Obligations**" are all of Borrower's obligations to pay when due any debts, principal, interest, APA Applicable Fees, Lenders' Expenses, the Applicable Payment Amount, and other amounts Borrower owes the Lenders now or later, in connection with, related to, following, or arising from, out of or under, this Agreement or, the other Loan Documents, or otherwise, including, without limitation, interest accruing after Insolvency Proceedings begin (whether or not allowed) and debts, liabilities, or obligations of Borrower assigned to the Lenders and/or RP, and the performance of Borrower's duties under the Loan Documents. For the avoidance of doubt, "Obligations" shall not include any obligations under the Purchase Agreement, the 2017 PA Amendment or 2017 PA.

"**OFAC**" is the U.S. Department of Treasury Office of Foreign Assets Control.

"**OFAC Lists**" are, collectively, the Specially Designated Nationals and Blocked Persons List maintained by OFAC pursuant to Executive Order No. 13224, 66 Fed. Reg. 49079 (Sept. 25, 2001) and/or any other list of terrorists or other restricted Persons maintained pursuant to any of the rules and regulations of OFAC or pursuant to any other applicable Executive Orders.

"**omecamtiv mecarbil**" means any pharmaceutical that contains the Borrower's proprietary small molecule cardiac myosin activator product, referred to as *omecamtiv mecarbil*, and any current or future forms thereof, including any reformulations, prodrugs, metabolites, racemates, deuterated forms, pharmaceutical hydrates, solvates, salts, crystalline, bases, esters, isomers, optical isomers, or polymorphs thereof, in any strength, form, formulation, regimen, administration or delivery route.

"**Operating Documents**" are, for any Person, such Person's formation documents, and, (a) if such Person is a corporation, its bylaws in current form, (b) if such Person is a limited liability company, its limited liability company agreement (or similar agreement), and (c) if such Person is a partnership, its partnership agreement (or similar agreement), each of the foregoing with all current amendments or modifications thereto.

"**Other Connection Taxes**" means, with respect to any Lender, Taxes imposed as a result of a present or former connection between such Lender and the jurisdiction imposing such Tax (other than connections arising from such Lender having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Loan Document, or sold or assigned an interest in any Term Loan, Term Loan Commitment or Loan Document).

"**Other Taxes**" means all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to Section 12.1).

"**Patents**" means all patents, patent applications and like protections including without limitation improvements, divisions, continuations, renewals, reissues, extensions and continuations-in-part of the same.

"**Permitted Company**" means a pharmaceutical and/or biologics company with [*].

"**Permitted Convertible Indebtedness**" is defined in Section 7.4.

"**Permitted Equity Derivatives**" shall mean any forward purchase, accelerated share purchase, call option, warrant transaction or other equity derivative transactions relating to any Permitted Convertible Indebtedness of Borrower.

"**Permitted Investments**" means:

(a) [*]

(b) Investments by any Subsidiary that is not a Loan Party in any Loan Party or Subsidiary that is not a Loan Party;

(c) [*];

(d) [*]; and

(e) [*]; provided that [*].

For the avoidance of doubt, any Investments made in compliance with clause (e)(i)(y) or clause (e)(ii)(y) of this definition or the last proviso in this definition on a certain day shall continue to be a Permitted Investment after such day, notwithstanding any [*] after such day.

"**Permitted License**" means: [*].

"Permitted Secured Indebtedness" means: [*].

"**Person**" is any individual, sole proprietorship, partnership, limited liability company, joint venture, company, trust, unincorporated organization, association, corporation, institution, public benefit corporation, firm, joint stock company, estate, entity or government agency.

"**Prime Rate**" means the rate of interest per annum from time to time published in the money rates section of the Wall Street Journal or any successor publication thereto as the "prime rate" then in effect; provided that if such rate of interest, as set forth from time to time in the money rates section of the Wall Street Journal, becomes unavailable for any reason, the "Prime Rate" shall be the average of the five (5) largest U.S. money center commercial banks, as determined by RP in its sole discretion.

"**Pro Rata Share**" is, as of any date of determination, with respect to each Lender, a percentage (expressed as a decimal, rounded to the ninth decimal place) determined by dividing the outstanding principal amount of Term Loans held by such Lender by the aggregate outstanding principal amount of all Term Loans.

"**Product**" is defined in Section 7.1.

"**Promissory Note**" is defined in Section 2.4.

"**Purchase Agreement**" is defined in Section 3.1(j).

"**Put Notice**" is defined in Section 2.8.

"**Regular Default Make Whole Amount**" means, with respect to a Term Loan, as of any date of determination, the result of (i) the Regular Default Payment with respect to such Term Loan as of such date of determination, minus (ii) the outstanding principal amount of such Term Loan as of such date of determination, as calculated by the Lenders in good faith; provided, however, that the Regular Default Make Whole Amount shall not be less than zero.

"**Regular Default Payment**" is, with respect to a Term Loan, as of any date of determination, a cash payment on such Term Loan in an amount equal to the result of:

(a) on or prior to the [*], an amount equal to 150.0% of the principal amount of such Term Loan;

(b) after the [*], an amount equal to [*]% of the principal amount of such Term Loan;

(c) after the [*], an amount equal to [*]% of the principal amount of such Term Loan;

(d) after the [*], an amount equal to [*]% of the principal amount of such Term Loan;

(e) after the [*], an amount equal to [*]% of the principal amount of such Term Loan;

(f) after the [*], an amount equal to [*]% of the principal amount of such Term Loan; and

(g) after the [*], an amount equal to the Applicable Final Payment Amount of such Term Loan,

minus, in each case, the sum, without duplication, of all payments that have been paid in cash to the Lenders pursuant to Section 2.2(c) prior to the date of determination,

plus, all Lenders' Expenses,

plus, all other outstanding Obligations (other than inchoate indemnity and expense reimbursement obligations that have not yet been asserted),

plus, interest at the Default Rate with respect to any past due amounts.

"**Repayment Notice**" is defined in Section 2.8.

"**Representative**" means, with respect to any Person, any director, employee, attorney, independent accountant, consultant or financial advisor of such Person.

"**Required Lenders**" means Lenders holding more than fifty (50%) of the sum of (i) the outstanding principal balance of the Term Loans and (ii) the outstanding Commitments.

"**Requirement of Law**" is as to any Person, any law (statutory or common), treaty, rule or regulation or determination of an arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

"**Responsible Officer**" is any of the President, Chief Executive Officer, or Chief Financial Officer of Borrower acting alone.

"**RP**" is defined in the preamble hereof.

"**SEC**" means the Securities and Exchange Commission, or any Governmental Authority succeeding to any of its principal functions.

"**Solvent**" is, with respect to any Person: the fair salable value of such Person's consolidated assets (including goodwill minus disposition costs) exceeds the fair value of such Person's liabilities; such Person is not left with unreasonably small capital after the transactions in this Agreement; and such Person is able to pay its debts (including trade debts) as they mature.

"**Specified Default Make Whole Amount**" means, with respect to a Term Loan, as of any date of determination, the result of (i) the present value, at a discount rate equal to the sum of the Treasury Rate plus 0.50%, of the Applicable Final Payment Amount with respect to such Term Loan as of such date of determination, minus (ii) the outstanding principal amount of such Term Loan as of such date of determination, as calculated by the Lenders in good faith; provided, however, that the Specified Default Make Whole Amount shall not be less than zero.

"Specified Default Payment" is, with respect to a Term Loan, a cash payment on such Term Loan in an amount equal to the sum of (A) the outstanding principal amount of such Term Loan, plus (B) the Specified Default Make Whole Amount with respect to such Term Loan, plus (C) all Lenders' Expenses, plus (D) all other outstanding Obligations (other than inchoate indemnity and expense reimbursement obligations that have not yet been asserted), plus (E) interest at the Default Rate with respect to any past due amounts.

"**Subsidiary**" is, with respect to any Person, any Person of which more than fifty percent (50%) of the voting stock or other Equity Interests (in the case of Persons other than corporations) is owned or controlled, directly or indirectly, by such Person or through one or more intermediaries. Unless the context otherwise requires, "**Subsidiary**" means a direct or indirect Subsidiary of Borrower.

"**Taxes**" is defined in Section 2.6.

"**Term Loan**" and "**Term Loans**" have the respective meanings set forth in Section 2.2(a) hereof.

"**Term Loan Commitments**" means the aggregate amount of such Commitments of all Lenders.

"**Third Party**" means any party other than RP, any Lender, Borrower, any other Loan Party and each of their respective Affiliates and related funds.

"**Trademarks**" means any trademark and servicemark rights, whether registered or not, applications to register and registrations of the same and like protections, and the entire goodwill of the business of Borrower connected with and symbolized by such trademarks.

"**Tranche 1 Advance**" is defined in Section 2.2(a)(i) hereof.

"**Tranche 2 Advance**" is defined in Section 2.2(a)(ii) hereof.

"**Tranche 2 Commitment**" is defined in Section 2.2(a)(ii) hereof.

"**Tranche 2 Draw Condition**" is defined in the definition of "Tranche 2 Draw Period".

"**Tranche 2 Draw Period**" means the one (1) year period beginning upon the occurrence of Marketing Approval by the FDA of omecamtiv mecarbil for the treatment of heart failure with reduced ejection fraction (such occurrence, the "**Tranche 2 Draw Condition**").

"**Tranche 3 Advance**" is defined in Section 2.2(a)(iii) hereof.

"**Tranche 3 Commitment**" is defined in Section 2.2(a)(iii) hereof.

"**Tranche 3 Draw Condition**" is defined in the definition of "Tranche 3 Draw Period".

"**Tranche 3 Draw Period**" means the one (1) year period beginning upon the occurrence of the commercial availability of a diagnostic test measuring omecamtiv mecarbil drug levels to support the final FDA label language for omecamtiv mecarbil (such occurrence, the "**Tranche 3 Draw Condition**").

"**Tranche 4 Advance**" is defined in Section 2.2(a)(iv) hereof.

"**Tranche 4 Commitment**" is defined in Section 2.2(a)(iv) hereof.

"**Tranche 4 Draw Condition**" is defined in the definition of "Tranche 4 Draw Period".

"**Tranche 4 Draw Period**" means the one (1) year period beginning on the date of delivery to RP of a reasonably detailed report of the results from the SEQUOIA-HCM Phase 3 trial showing a statistically significant benefit on (a) the primary endpoint of change in peak oxygen uptake measured by cardiopulmonary exercise testing from baseline to week 24 and (b) the secondary endpoints of (i) KCCQ-CSS change from baseline at week 12 and 24 and (ii) the proportion of patients with $\geq$1 NYHA functional class improvement at week 12 and 24 (such delivery, the "**Tranche 4 Draw Condition**").

"**Tranche 5 Advance**" is defined in Section 2.2(a)(v) hereof.

"**Tranche 5 Draw Condition**" is defined in the definition of "Tranche 5 Draw Period".

"**Tranche 5 Draw Period**" means the one (1) year period beginning from the date of NDA Acceptance for aficamten (such acceptance, the "**Tranche 5 Draw Condition**").

"**Transfer**" is defined in Section 7.1.

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the Effective Date.

BORROWER:

CYTOKINETICS, INCORPORATED

By: /s/ Robert I. Blum

Name: Robert I. Blum

Title: President & Chief Executive Officer

LENDER:

ROYALTY PHARMA DEVELOPMENT FUNDING, LLC

By: /s/ George Lloyd

Name: George Lloyd

Title: Director

Schedule 1.1

Commitments

Lender	Type of Term Loan Commitment	Amount of Such Type of Term Loan Commitment	Percentage of Such Type of Term Loan Commitment
ROYALTY PHARMA DEVELOPMENT FUNDING, LLC	Commitment to make Tranche 1 Advance	$50,000,000	100%
ROYALTY PHARMA DEVELOPMENT FUNDING, LLC	Tranche 2 Commitment	$50,000,000	100%
ROYALTY PHARMA DEVELOPMENT FUNDING, LLC	Tranche 3 Commitment	$25,000,000	100%
ROYALTY PHARMA DEVELOPMENT FUNDING, LLC	Tranche 4 Commitment	$75,000,000	100%
ROYALTY PHARMA DEVELOPMENT FUNDING, LLC	Tranche 5 Commitment	$100,000,000	100%
Total	**Aggregate Term Loan Commitments**	**$300,000,000**	**100%**

Schedule 2.2(c)
Payment Schedule

Calendar Quarter to Commence Following the Funding Date of Such Applicable Term Loan	Payment Amount of Such Term Loan
7th	Applicable Multiplier Amount x $720,000
8th	Applicable Multiplier Amount x $720,000
9th	Applicable Multiplier Amount x $1,440,000
10th	Applicable Multiplier Amount x $1,440,000
11th	Applicable Multiplier Amount x $1,440,000
12th	Applicable Multiplier Amount x $1,440,000
13th	Applicable Multiplier Amount x $1,440,000
14th	Applicable Multiplier Amount x $1,440,000
15th	Applicable Multiplier Amount x $1,440,000
16th	Applicable Multiplier Amount x $1,440,000
17th	Applicable Multiplier Amount x $1,440,000
18th	Applicable Multiplier Amount x $1,440,000
19th	Applicable Multiplier Amount x $1,440,000
20th	Applicable Multiplier Amount x $1,440,000
21st	Applicable Multiplier Amount x $1,440,000
22nd	Applicable Multiplier Amount x $1,440,000
23rd	Applicable Multiplier Amount x $1,440,000
24th	Applicable Multiplier Amount x $1,440,000
25th	Applicable Multiplier Amount x $1,440,000
26th	Applicable Multiplier Amount x $1,440,000
27th	Applicable Multiplier Amount x $1,440,000
28th	Applicable Multiplier Amount x $1,440,000
29th	Applicable Multiplier Amount x $1,440,000
30th	Applicable Multiplier Amount x $1,440,000
31st	Applicable Multiplier Amount x $1,440,000
32nd	Applicable Multiplier Amount x $1,440,000
33rd	Applicable Multiplier Amount x $1,440,000
34th	Applicable Multiplier Amount x $1,440,000
35th	Applicable Multiplier Amount x $1,440,000
36th	Applicable Multiplier Amount x $1,440,000
37th	Applicable Multiplier Amount x $1,440,000
38th	Applicable Multiplier Amount x $1,440,000
39th	Applicable Multiplier Amount x $1,440,000
40th	Applicable Multiplier Amount x $1,440,000
Total Amount of Such Payments of Such Term Loan	Applicable Multiplier Amount x $47,520,000
Final Payment of Such Term Loan (the amount set forth in the column directly to the right of this column in this row of this chart, the "**Applicable Final Payment Amount**")	The Result of (A) the Applicable Multiplier Amount x $47,520,000, Minus (B) the Amount of Payments Above in this Column that Have Been Made in Cash to the Applicable Lenders for such Term Loan

[*] – CERTAIN INFORMATION IN THIS DOCUMENT HAS BEEN EXCLUDED PURSUANT TO REGULATION S-K, ITEM 601(B)(10). SUCH EXCLUDED INFORMATION IS NOT MATERIAL AND WOULD LIKELY CAUSE COMPETITIVE HARM TO THE REGISTRANT IF PUBLICLY DISCLOSED.

AMENDMENT NO. 1 TO ROYALTY PURCHASE AGREEMENT

This Amendment No. 1 To Royalty Purchase Agreement, dated as of January 7, 2022, (this "Amendment"), is made and entered into by and between **Cytokinetics, Incorporated**, a Delaware corporation (the "Seller"), and **RPI Finance Trust**, a Delaware statutory trust (the "Buyer").

RECITALS

WHEREAS, the Seller and the Buyer entered into that certain Royalty Purchase Agreement, dated as of February 1, 2017 (the "Original Agreement" and, together with this Amendment, the "Agreement"), whereby the Buyer purchased the Purchased Royalty (a portion of the Royalty) from the Seller.

WHEREAS, the payments comprising the Royalty were payable to Seller by Amgen, Inc., a Delaware corporation (the "Licensee"), pursuant to that certain Collaboration and Option Agreement, dated as of December 29, 2006 (as amended, the "License Agreement"), which such License Agreement was terminated by Licensee pursuant to Section 18.2 thereof, and such termination was deemed effective May 20, 2021.

WHEREAS, following and as a result of the termination of the License Agreement, the provisions of the Original Agreement automatically terminated pursuant to Section 7.2 of the Original Agreement, except with respect to rights that accrued prior to such termination and except for those terms that survived in accordance with Section 7.3 of the Original Agreement (the "Termination").

WHEREAS, the Seller and the Buyer are entering into this Amendment pursuant to Section 5.9(b) of the Original Agreement to preserve the Buyer's rights in and to the Purchased Royalty in any subsequent license agreement with respect to any Compound to be Commercialized by a Third Party or in connection with direct sales by the Seller of any Compound (collectively, the "Preserved Rights").

WHEREAS, the Seller and the Buyer desire to amend certain provisions of the Original Agreement and make such other agreements as provided herein in connection with the Preserved Rights.

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

AGREEMENT

1. Definitions.

a. Capitalized terms used but not defined in this Amendment shall have the meanings given to them in the Original Agreement.

b. For clarity, "Net Sales" shall specifically include sales of all Compounds by or for Seller, its Affiliates and licensees to Third Parties (not including such Person's licensees); provided, however, that Net Sales shall not include sales of active pharmaceutical ingredients for manufacturing purposes on behalf of Seller, its Affiliates or licensees to the extent such active pharmaceutical ingredient is converted into drug product for sale by Seller, its Affiliates or licensees.

2. Seller's Representations and Warranties. The Seller represents and warrants to the Buyer that as of the date hereof:

a. Authorization. The Seller has all requisite corporate power and authority to execute, deliver and perform its obligations under this Amendment. The execution, delivery and performance of this Amendment, and the consummation of the transactions contemplated hereby, have been duly authorized by all necessary corporate action on the part of the Seller.

b. Enforceability. This Amendment has been duly executed and delivered by an authorized officer of the Seller and constitutes the valid and binding obligation of the Seller, enforceable against the Seller in accordance with its terms, except as may be limited by applicable Bankruptcy Laws or by general principles of equity (whether considered in a proceeding in equity or at law).

c. No Conflicts. The execution, delivery and performance by the Seller of this Amendment and the consummation of the transactions contemplated hereby do not and shall not (i) contravene or conflict with the certificate of incorporation or bylaws of the Seller, (ii) contravene or conflict with or constitute a material default under any law or Judgment binding upon or applicable to the Seller, or (iii) except as would not reasonably be expected to result in a material adverse effect on the Preserved Rights, contravene or conflict with or constitute a material default under any other material contract or other material agreement binding upon or applicable to the Seller.

d. Termination of License Agreement; Preservation and Reversion of Rights. The License Agreement has been terminated in accordance with its terms and the Seller has requested from the Licensee all of the rights in the Program and license(s) contemplated by Section 18.3 of the License Agreement. Prior to the termination of the License Agreement, the Seller did not elect to develop and commercialize any CK Product Opportunity pursuant to Section 4.6.1.3 of the License Agreement. Except for the Ji Xing License Agreement, the Seller has not entered into any Out-License related to CK-452 or any other Compound. Additionally, except for the License Agreement (and amendments thereto provided to the Buyer) [*], the Seller has not entered into any material agreement with Licensee related to the Purchased Royalty, the Compound, or the reversion of rights to Cytokinetics related to any Compound. The Existing Sublicense has been terminated.

3. Buyer's Representations and Warranties. The Buyer represents and warrants to the Seller that as of the date hereof:

a. Authorization. The Buyer has the requisite trust right, power and authority to execute, deliver and perform its obligations under this Amendment. The execution, delivery and performance of this Amendment, and the consummation of the transactions contemplated hereby, have been duly authorized by all necessary action on the part of the Buyer. Wilmington Trust is duly authorized to execute and deliver this Amendment on behalf of Buyer.

b. **Enforceability**. This Amendment has been duly executed and delivered by an authorized person of the owner trustee of the Buyer and constitutes the valid and binding obligation of the Buyer, enforceable against the Buyer in accordance with its terms, except as may be limited by applicable Bankruptcy Laws or by general principles of equity (whether considered in a proceeding in equity or at law).

c. **No Conflicts**. The execution, delivery and performance by the Buyer of this Amendment do not and shall not (i) contravene or conflict with the organizational documents of the Buyer, (ii) contravene or conflict with or constitute a default under any material provision of any law binding upon or applicable to the Buyer or (iii) contravene or conflict with or constitute a default under any material contract or other material agreement or Judgment binding upon or applicable to the Buyer.

4. **Covenants.** The parties agree that, except for any rights that accrued or breaches that occurred prior to the Termination and except as agreed below, the covenants contained in Article 5 of the Original Agreement are no longer operative and, therefore, the parties agree to the covenants below in connection with the Preserved Rights.

a. **Reporting**.

i. The Seller shall use commercially reasonable efforts to respond to any reasonable inquiries of the Buyer related to the Purchased Royalty or to any Compound then in Development or being Commercialized and shall provide any additional development and commercialization information related thereto (other than any licensees' forecasts, market research or modeling) reasonably requested by the Buyer. For clarity, disclosure and access to any patent documentation, including correspondence or reports provided hereunder related to the Seller Patent Rights shall be limited to the Buyer's counsel (including Buyer's internal legal counsel).

ii. Once during each calendar quarter (other than any calendar quarter in which an Annual Update Meeting occurs), the Buyer Representatives and the Seller Representatives shall have a telephonic meeting (each a "Quarterly Update Meeting") to discuss material developments in the development and commercialization of the Compounds then in Development or being Commercialized by Seller, its Affiliates or licensees (other than any of Seller's forecasts, market research or modeling) and the Seller since the last Quarterly Update Meeting. Once during each twelve (12)-month period, the Buyer Representatives and the Seller Representative shall meet in person at the Seller's offices or such other place as the Seller and the Buyer mutually agree (each an "Annual Update Meeting") to discuss material developments in the development and commercialization of the Compounds then in Development or Commercialization by Seller, its Affiliates or licensees (other than any of Seller's forecasts, market research or modeling) and Seller since the or the last Annual Update Meeting. Each of the Buyer and the Seller shall bear its own costs and expenses related to such meetings and Buyer acknowledges that the receipt of information from such meetings shall be maintained as confidential pursuant to this Agreement and may include material, non-public information which prohibits trading while in possession of or misuse of such information under applicable securities laws.

iii. During the Royalty Term, Seller shall provide semi-annually a list in the form of Schedule 3.1(j)(i) to the Original Agreement to Buyer's counsel (including Buyer's internal legal counsel) of all Seller Patent Rights covering Compounds in Development or Commercialization by or on behalf of Seller and its Affiliates and licensees as of such date.

b. Royalty; Royalty Reports.

i. The Seller shall pay to the Buyer the Purchased Royalty, without any setoff or offset (except as required pursuant to Section 4(j)), for such calendar quarter on or prior to the Quarterly Deadline; provided that for any Net Sales made by the counterparty to any Out-License for which payment is received by the Seller fewer than [*] calendar days prior to the Quarterly Deadline, such payment to the Buyer will be paid with the following calendar quarter's Purchased Royalty.

ii. If any amounts payable by the Seller shall be overdue for [*] Business Days (other than any such unpaid amounts arising as a result of late or improper reporting or late payment by a licensee or are otherwise subject to a good faith dispute), the Seller shall additionally pay to the Buyer simple interest on the sum outstanding at the rate per annum equal to the lesser of (i) the sum of [*] plus the prime rate for the date that payment was due, as published by The Wall Street Journal, Eastern U.S. edition and (ii) the highest rate permitted by law shall apply. The payment of such interest shall not prevent the Buyer from exercising any other rights it may have as a consequence of the lateness of any payment.

iii. **(a)** Concurrently with the payment of each Purchased Royalty payment, the Seller shall deliver a written report setting forth in reasonable detail, (1) the calculation of the Purchased Royalty payable to the Buyer for the prior calendar quarter identifying, the number of units of each Compound sold by the Seller and its Affiliates and, to the extent available, each counterparty to any Out-License, gross sales generated by or on behalf of the Seller and any of its Affiliates and each counterparty to any Out-License, and a break-down of all permitted deductions from gross sales used to determine Net Sales and the Purchased Royalty due to the Buyer and (2) the cumulative year-to-date aggregate Net Sales for each Compound through the end of the prior calendar quarter (the "Royalty Report"); provided that to the extent a counterparty under the Out-License has not provided any requisite information in respect of the Royalty Report with respect to a calendar quarter by the [*] calendar day prior to the Quarterly Deadline, the Seller may elect to provide the information in respect of Net Sales by such counterparty in the following calendar quarter's Royalty Report. The Royalty Report shall be in a form agreed by the parties and reasonably acceptable to the Buyer and the Seller and, to the extent permitted under any applicable confidentiality or disclosure obligations, shall also have attached copies of any royalty reports received by the Seller from licensees under any Out-Licenses.

(b) The Seller shall use Specified Efforts to include in each future Out-License a provision requiring the counterparty to such Out-License to prepare and maintain reasonably complete and accurate records of the information to be disclosed in each Royalty Report, and to disclose such information to the Seller to enable the disclosures of such information in each Royalty Report, as contemplated herein. The Seller shall use Specified Efforts to obtain in a timely manner from each such counterparty any information to be disclosed in each Royalty Report, consistent with the terms of the applicable Out-License(s).

c. Inspections and Audits of the Seller. Upon at least [*] written notice and during normal business hours, no more frequently than once in any [*]] month period, the Buyer may cause an inspection and/or audit by an independent public accounting firm reasonably acceptable to the Seller to be made of the Seller's books of account for the [*] prior to the audit for the purpose of determining the correctness of the Purchased Royalty payments made under the Agreement. Upon the Buyer's reasonable request not more than [*] period while any Out-License remains in effect, the Seller shall exercise any rights it may have under any Out-License relating to a Compound to cause an inspection and/or audit by an independent public accounting firm reasonably acceptable to the Seller to be made of the books of account of any counterparty thereto for the purpose of determining the correctness of the Purchased Royalty paid under the Agreement. Seller shall notify Buyer in writing if it initiates an inspection and/or audit of the books of accounts of any counterparty to an Out-License to the extent such inspection and/or audit is related to the Purchased Royalty, and shall provide to Buyer a redacted copy of any report relating thereto within [*] Business Days of receipt thereof; provided, that any redactions to such report shall not include any information necessary to determine the correctness of the calculation of the Purchased Royalty paid under the Agreement. All of the expenses of any inspection or audit requested by the Buyer hereunder (including the fees and expenses of such independent public accounting firm designated for such purpose) shall be borne by the Buyer, unless the independent public accounting firm determines that Purchased Royalty payments previously paid were incorrect by an amount greater than [*] of the Purchased Royalty actually paid for the period reviewed by such public accounting firm in the aggregate, in which case such expenses shall be borne by the Seller. The terms on which any such independent public accounting firm is engaged shall provide that such independent public accounting firm may not disclose the confidential information of the Seller or any such counterparty to any Out-License relating to any Compound to the Buyer, except to the extent such disclosure is either necessary to determine the correctness of the Purchased Royalty or such confidential information otherwise would be included in a Royalty Report. All information obtained by the Buyer as a result of any such inspection or audit shall be Confidential Information of the Seller subject to Article 8 of the Original Agreement and the independent public accounting firm shall be considered a Representative of Buyer for purposes of Article 8 of the Original Agreement. Any payment owed by one party to another as a result of the audit (except to the extent the result of such audit is being disputed in good faith by the Seller) shall be made within [*] Business Days of receipt of the audit report. No royalty period will be subject to an audit more than once.

d. Intellectual Property Matters.

i. If the Seller recovers and actually receives cash proceeds as damages from a Third Party in an action brought for such Third Party's infringement of any Seller Patent Rights in connection with the exploitation of any product, therapy or service intended for use, or actually used, and that actually or prospectively competes with a Compound, where such damages (whether in the form of judgment or settlement) are awarded for such infringement of such Seller Patent Rights relating to a Compound, (i) cash proceeds will be allocated first to the reimbursement of any expenses incurred by the Seller (and/or its licensee) in bringing such action (including attorney's fees) not already reimbursed from other damages awarded under the same action, then (ii) any remaining amount of such cash proceeds will be reduced, if applicable, to comply with allocation of recovered damages with licensors of such Seller Patent Rights required under any In-Licenses or licensees of such Seller Patent Rights under any out-licenses, if any, and (iii) any residual cash proceeds of such damages after application of (i) and (ii) will be treated as Net Sales of the Compound for purposes of determining the amount of Purchased Royalties payable to the Buyer under the Agreement. The Seller shall provide to the Buyer a copy of any written notice received by the Seller from a Third Party alleging or claiming that the making, having made, using, importing, offering for sale or selling of a Compound infringes or misappropriates any Patents or other intellectual property rights of such Third Party, together with copies of material correspondence sent or received by the Seller related thereto, as soon as practicable and in any event not more than [*] Business Days following such delivery or receipt.

ii. The Seller shall promptly inform the Buyer of any infringement by a Third Party of any Seller Patent Right related to any Compound of which the Seller becomes aware. Without limiting the foregoing, the Seller shall provide to the Buyer a copy of any written notice of any suspected infringement of any Seller Patent Rights or other Third Party Patents related to any Compound delivered or received by the Seller, as well as copies of material correspondence related thereto, as soon as practicable and in any event not more than [*] Business Days following such delivery or receipt.

iii. Within [*] Business Days of initiating, or permitting a licensee to initiate, an enforcement action regarding any suspected infringement by a Third Party of any Seller Patent Right related to any Compound, the Seller shall provide the Buyer with written notice of such enforcement action.

e. Efforts to Commercialize CK-452. The Seller shall (directly or indirectly through an Affiliate or licensee or other Third Party) use Specified Efforts to Develop and Commercialize CK-452.

f. Out-Licenses.

i. Promptly (and in any event within [*] Business Days), the Seller shall provide the Buyer with (i) true, correct and complete copies of each Out-License executed after the date hereof, and (ii) true, correct and complete copies of each material amendment, supplement, modification to, or written waiver under, an Out-License. All materials delivered by the Seller to the Buyer pursuant to this Section 4(f) shall be the Confidential Information of Seller and subject to the obligations of confidentiality set forth in Article 8 of the Original Agreement. The Seller may redact or otherwise exclude from any of the foregoing any information, the redaction or exclusion of which is reasonably required to comply with applicable laws (including those related to patient information and privacy laws) or in the case of any information that does not relate to the Purchased Royalty, the Seller Patent Rights, or any Compound, to the extent required by any obligations of confidentiality to any Third Party; provided that the Seller shall provide to the Buyer a reasonable summary of any information that is redacted to the extent permitted by applicable law or such obligation.

ii. The Seller may grant, at its sole discretion, Out-Licenses to any Affiliate or Third Party in all or any portion of the world without the Buyer's consent; provided that such Out-License shall not assign or otherwise convey title to or impose any Lien on the Purchased Royalty.

iii. The Seller shall provide the Buyer prompt written notice within [*] Business Days of any counterparty's material breach of its obligations under any Out-License of which the Seller becomes aware, to the extent such material breach is directly related to the Buyer's rights or Seller's obligations to Buyer under the Agreement.

iv. The Seller shall include in all Out-Licenses provisions permitting the Seller to audit such licensee and shall use Specified Efforts to include terms and conditions consistent in all material respects with the Buyer's rights to audit the Seller set forth in Section 4(c) of this Amendment.

v. The Seller shall provide the Buyer with written notice following the termination of any Out-License.

g. **Negative Pledge.** The Seller shall not, and shall not permit any of its Affiliates to, create, incur, assume or suffer to exist any Lien on: (i) the Purchased Royalty, except that the Seller may grant a lien to a Senior Debt Provider on all of its accounts receivable solely in connection with a customary receivables financing facility entered into by the Seller with such Senior Debt Provider, provided that such Senior Debt Provider enters into an Acceptable Intercreditor Agreement with the Buyer, which, among other things, acknowledges that the Purchased Royalty is property of the Buyer; or (ii) except for Permitted Liens, any of the other Preserved Rights, the Seller Patent Rights or any Out-License, in the case of clause (ii), if such action would reasonably be expected to result in a Material Adverse Effect.

h. **Further Assurances.** The Seller and the Buyer agree to execute and deliver such other documents, certificates, agreements and other writings and to take such other actions as may be reasonably necessary in order to give effect to the transactions contemplated by the Original Agreement (as amended by this Amendment). The Seller shall, upon the written request of the Buyer, record and file, financing statements (and continuation statements with respect to such financing statements when applicable) with respect to the Purchased Royalty meeting the requirements of applicable state law in such manner and in such jurisdictions as are necessary or appropriate to perfect the sale, transfer, assignment and conveyance of the Purchased Royalty to the Buyer and to perfect the backup security interest granted by the Seller to the Buyer; provided that in connection with the incurrence of any secured Indebtedness with a Senior Debt Provider permitted under this Agreement, at the request of the Seller, Buyer shall without undue delay enter into, an Acceptable Intercreditor Agreement with the applicable Senior Debt Provider (it being agreed that the grant of a Lien shall not be subject to Section 9.6 of the Original Agreement).

i. Tax Withholding.

i. The Buyer and the Seller agree that as of the date of this Amendment, the Seller is not required to deduct or withhold any taxes with respect to any payments required under the Agreement. Each party shall be entitled to deduct and withhold from the payments otherwise required pursuant to the Agreement any such taxes as the party may be required to deduct and withhold with respect to any such payments under applicable law (it being understood that, solely with respect to U.S. federal withholding tax, a party shall not make any such deduction or withholding if such party has received a valid, properly executed Internal Revenue Service Form W-9 or W-8BEN-E, as applicable, certifying that other party or the relevant assignee, as applicable, is (x) not subject to U.S. federal "backup" withholding and (y) is exempt from U.S. withholding tax or U.S. federal withholding tax on royalties pursuant to the U.S.-Ireland tax treaty, as applicable). If a party is required by applicable law to deduct and withhold any taxes from any such payment, such party shall (i) provide advance written notice of any intention to withhold or deduct any taxes from such payments to the other party, and (ii) to the extent any such withholding or deduction requirement cannot be mitigated pursuant to clause (b) below, pay the full amount deducted or withheld to the relevant Governmental Entity in accordance with applicable law. To the extent that amounts are so deducted or withheld and paid to the relevant Governmental Entity, except as set forth in the following sentence, such deducted and withheld amounts will be treated for all purposes of the Agreement as having been paid to the applicable party. Notwithstanding this Section 4(j), if, as a result of a Withholding Action by the Seller (including any assignee or successor), withholding is required by applicable law and the amount of such withholding exceeds the amount of withholding that would have been required if the Seller had not committed the Withholding Action, then the Seller shall pay an additional amount to the Buyer such that, after withholding from the payment contemplated by the Agreement and such additional amount, the Buyer receives the same amount as it would have received from the Seller absent such Withholding Action by the Seller. For the avoidance of doubt, if as a result of a Withholding Action by the Buyer (including any assignee or successor, including any transfer pursuant to Section 9.6 of the Original Agreement) the amount of withholding under the law of the applicable jurisdiction exceeds the amount of such withholding that would have been required in the absence of such Withholding Action by the Buyer, the Seller shall be required to pay an additional amount only to the extent that the Seller would be required to pay any additional amount to the Buyer pursuant to the preceding sentence if the Buyer had not committed such Withholding Action. For purposes of this Section 4(j)(i), "Withholding Action" by a party means (A) a permitted assignment or sublicense of the Agreement (in whole or in part) by such party to an Affiliate or a Third Party in a different jurisdiction; (B) the exercise by such party of its rights under the Agreement (in whole or in part) through an Affiliate or Third Party in a different jurisdiction (or the direct exercise of such rights by an Affiliate of such party outside of the applicable jurisdiction); (C) a redomiciliation of such party, an assignee or a successor to a jurisdiction outside of the applicable jurisdiction; and (D) any action taken after the date of the Agreement by such party that causes the Agreement or any payment contemplated by the Agreement to become subject to tax (including by virtue of withholding or deduction) in any additional jurisdictions after the date of the Agreement.

ii. If any taxes are imposed or required to be withheld or deducted by the Seller, the Buyer and the Seller hereby agree to cooperate in good faith to mitigate the amount of any of such taxes which the Seller must withhold or deduct pursuant to this Section 4(j), provided, however, that the Buyer shall determine in its sole discretion whether, or the extent to which, its investors shall be involved or be required to be involved in connection with the foregoing.

iii. Notwithstanding anything herein to the contrary, (A) the parties hereunder shall make all payments required to be made pursuant to the Agreement in U.S. dollars by wire transfer of immediately available funds to the bank account designated in writing from time to time by the other party, and (B) any such payments made by the Buyer shall be made without set-off, reduction or deduction, or withholding for or on account of any U.S. federal withholding taxes so long as the Seller has provided to the Buyer a valid, properly executed Internal Revenue Service Form W-9 indicating that Buyer is not subject to U.S. federal "backup" withholding.

iv. The parties agree that with respect to both the Original Agreement and this Amendment, for tax purposes the relationship between the Buyer and the Seller continues to be solely that of purchaser and seller, and neither the Buyer nor the Seller has any fiduciary or other special relationship with the other party or any of its Affiliates. This Amendment is not a partnership or similar agreement, and nothing contained herein shall be deemed to constitute the Buyer and the Seller as a partnership, an association, a joint venture or any other kind of entity or legal form for any purposes, including any Tax purposes. The Buyer and the Seller agree that they shall not take any inconsistent position with respect to such treatment in a filing with any Governmental Entity.

j. Notwithstanding the Termination, the parties agree that Sections 5.1(a) and 5.8(b) of the Original Agreement shall continue to be operative.

5. Construction; Effect of Amendment. This Amendment shall be deemed a part of and shall take precedence over and supersede any provisions to the contrary contained in the Original Agreement. Except as expressly modified by this Amendment, all of the provisions of the Original Agreement that survived the Termination that are not in conflict with the terms of this Amendment shall remain in full force and effect. All references to "Agreement" in the Original Agreement and in this Amendment shall be deemed to refer to the Agreement as amended by this Amendment.

6. Termination of Agreement. The surviving terms and provisions of the Agreement, as modified by this Amendment, shall, unless earlier terminated by mutual written agreement of the Buyer and the Seller, continue in full force and effect until [*] days after such time as the Seller is no longer obligated to make any Purchased Royalty payments to the Buyer (or its successor or assigns), at which point the Agreement shall automatically terminate, except with respect to any rights that shall have accrued prior to such termination. Notwithstanding the Termination and for the avoidance of doubt, the parties agree that the provisions surviving the Termination as provided in Section 7.3 of the Original Agreement shall continue to be in full force and effect, including with respect to the rights, obligations and liabilities of the parties accruing or arising prior to the Termination and in connection with this Amendment and the Preserved Rights.

7. Additional Defined Terms. Section 9.1 of the Original Agreement (which survived the Termination) is amended by adding the terms defined in this Amendment, including the following:

"Acceptable Intercreditor Agreement" means, with respect to any secured Indebtedness of the Seller, (a) an intercreditor or other agreement between the Buyer and the Senior Debt Provider providing (i) that such Senior Debt Provider shall not, directly or indirectly, contest or challenge, or support any Person in contesting or challenging, the true sale characterization of the sale of the Purchased Royalty to the Buyer or the Buyer's rights with respect to the backup security interest granted by Seller to the Buyer; (ii) that such Senior Debt Provider shall have the first right of enforcement in any Liens on the Product Assets until the expiration of a standstill period to be agreed; (iii) if the Senior Debt Provider in the course of exercising its enforcement rights with respect to the Product Assets sells or otherwise transfers any Product Assets, such Product Assets shall be transferred subject to the rights of the Buyer with respect to the Purchased Royalty on terms materially consistent with this Agreement or otherwise satisfactory to the Buyer in its reasonable discretion; (iv) after the occurrence of an insolvency proceeding, the Buyer shall not oppose any disposition of the Product Assets so long as the Product Assets so disposed of are purchased subject to the rights of the Buyer with respect to the Purchased Royalty on terms materially consistent with this Agreement (including the same or equivalent Liens provided hereunder) or otherwise satisfactory to the Buyer in its reasonable discretion; (v) in the event of any direct or indirect sale, transfer or other disposition of the Product Assets, if such Product Assets are not transferred subject to the rights of the Buyer with respect to the Purchased Royalty on terms materially consistent with this Agreement (including the same or equivalent Liens provided hereunder) or otherwise satisfactory to the Buyer in its reasonable discretion, then the proceeds from such disposition shall be subject to a waterfall pursuant to which the Buyer shall be entitled to a percentage of the proceeds equal to the then applicable royalty rate set forth in the definition of Purchased Royalty; (vi) other provisions reasonably satisfactory to the Senior Debt Provider and the Buyer consistent with clause (i)-(v) above and consistent with the premise that the Senior Debt Provider shall have the primary right to (x) enforce the Liens with respect to the Product Assets and (y) decide other customary intercreditor matters such as pay-over provisions and provisions regarding DIP financings; and (vii) the Buyer shall not interfere with such Senior Debt Provider enforcing its rights and remedies as a secured creditor under the UCC, any Bankruptcy Laws and any other applicable law (to the extent such enforcement is not inconsistent with clauses (i)-(vi) above), and (b) any other intercreditor agreement between the Buyer and a Senior Debt Provider in form and substance reasonably satisfactory to the Buyer, such Senior Debt Provider and the Seller.

"Change of Control" means (a) the occurrence of a consolidation, merger, exchange of shares, recapitalization, reorganization, business combination or other similar event, following which the holders of the stock of Seller immediately preceding such consolidation, merger, exchange, recapitalization, reorganization, combination or event either (i) no longer hold a majority of the shares of the stock of Seller or (ii) no longer have the ability to elect a majority of the board of directors of the Seller, (b) any "person" or "group" (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act) is or shall at any time become the "beneficial owner" (as defined in Rules 13(d)-3 and 13(d)-5 under the Securities Exchange Act of 1934, as amended), directly or indirectly, of [*] % or more on a fully diluted basis of the voting interests in the Seller's stock, or (c) a sale of all or substantially all of the assets of the Seller and its Subsidiaries taken as a whole.

"In-License" means any license, settlement agreement or other agreement between the Seller or any of its Affiliates and any Third Party pursuant to which the Seller or any of its Affiliates obtains a license, a covenant not to sue or similar grant of rights to any Patents or other intellectual property rights of such Third Party that are or were reasonably necessary or useful for the Commercialization of any Compound which require royalty, milestone or other payment to such Third Party to use such Patents or other intellectual property rights to Commercialize any Compounds.

"Indebtedness" of any Person means any indebtedness for borrowed money, obligation evidenced by a note, bond, debenture or similar instrument, or guarantee of any of the foregoing.

"Ji Xing License Agreement" means that certain License and Collaboration Agreement, dated as of December 20, 2021, between the Seller and Ji Xing Pharmaceuticals Limited, a company organized under the laws of the Cayman Islands.

"Out-License" means any license or other agreement between the Seller or any of its Affiliates and any Third Party pursuant to which the Seller or any of its Affiliates grants to such Third Party a license or sublicense of, covenant not to sue under, or other similar rights under any Seller Patent Rights or other intellectual property right that is reasonably necessary for the Commercialization of a Compound in the Territory in order for such Third Party to Commercialize a Compound; provided, however, that "Out-License" shall not include (a) any research licenses; (b) licenses to distributors, without any other right to Commercialize a Compound; (c) agreements granting non-exclusive rights to intellectual property rights that do not grant any right to Commercialize a Compound, including, but not limited to, manufacturing agreements, material transfer agreements and consulting agreements.

"Patents" means any and all existing and future patents and patent applications, including any continuation, continuation-in-part, division, provisional or any substitute applications, or any patent application claiming priority thereto, any patent issued with respect to any of the foregoing patent applications, any certificate, reissue, reexamination, renewal or patent term extension or adjustment (including any supplementary protection certificate) of any such patent or other governmental actions which extend any of the subject matter of a patent, and any substitution patent, confirmation patent or registration patent or patent of addition based on any such patent, and all foreign counterparts of any of the foregoing.

"Permitted Secured Indebtedness" has the meaning given to such term in the Development Funding and Loan Agreement, dated as of the date hereof, by and between the Seller and Royalty Pharma USA, Inc.

"Product Assets" means the Seller's and its Affiliates' rights, title and interests in the Compounds (including all inventory) and Seller Patent Rights owned, licensed or otherwise held by the Seller or any of its Affiliates and any proceeds thereof, including all accounts receivable and general intangibles resulting from the sale, license or other disposition of Compounds by the Seller or its Affiliates; provided, however, that, upon a Change of Control of the Seller, no Patents owned, in-licensed or otherwise held by the acquiring entity (or any of its Affiliates existing prior to such Change of Control or acquired after such Change of Control) as of immediately prior to the closing of such Change of Control (or in the case of an acquired Affiliate, as of immediately prior to the closing of such acquisition) will be deemed "owned, licensed or otherwise held" for the purposes of this definition. Notwithstanding the foregoing, "Product Assets" shall not include raw materials, work in progress, deposit or securities accounts, chattel paper, instruments, cash or cash equivalents.

"Quarterly Deadline" means: (i) with respect to each of the first three calendar quarters in each calendar year, forty-five (45) calendar days after the end of such calendar quarter and (ii) with respect to last calendar quarter in each calendar year, seventy-five (75) calendar days after the end of such calendar quarter.

"Seller Patent Rights" means any and all Patents that are owned by or licensed to Seller or any of its Affiliates that claim, cover or are otherwise necessary or useful for, the Commercialization of any Compound.

"Senior Debt Provider" means, collectively, the lenders or providers (or its or their agents or representatives, as applicable) of Indebtedness secured by Lien(s) on the Product Assets.

"Similarly Situated Company" shall mean [*].

"Specified Efforts" means, [*].

"Subsidiary" means with respect to the Seller any and all corporations, partnerships, limited liability companies, joint ventures, associations and other entities controlled (by contract or otherwise) by the Seller directly or indirectly through one or more intermediaries.

[*].

Further, the parties agree that terms in the Agreement that are as defined in the License Agreement, shall continue to be as defined in the License Agreement as if such agreement were in full force and effect, with any modifications to the interpretation of such defined terms as would be required to carry out the purpose and intent of the Agreement, including this Amendment.

8. Amended and Restated Defined Terms. The definition of Royalty Report and the following defined terms shall amend, restate and replace such terms as they were defined in the Original Agreement, provided that such amendment, restatement and replacement shall not abridge any rights or obligations of either party accruing prior to the date of this Amendment:

"Affiliate" means, with respect to any Person, any other Person, directly or indirectly, controlling, controlled by or under common control with such Person. Solely for purposes of this definition, the term "control" (including the correlative terms "controlling," "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise. For clarity, the Buyer shall not be considered an Affiliate of the Seller for the purpose of this Agreement.

"Permitted Liens" means (a) Liens for Taxes not yet delinquent or Liens for Taxes being contested in good faith and by appropriate proceedings for which adequate reserves have been established; (b) banker's liens for collection or rights of set off or similar rights and remedies as to deposit accounts or other funds maintained with depositary institutions; (c) any license grant to a licensee under an Out-License or any other licenses not prohibited hereunder; (d) Liens in the nature of right of setoff in favor of counterparties to contractual agreements with the Seller in the ordinary course of business; (e) Liens securing Permitted Secured Indebtedness; and (f) any retained rights of a licensor under any in-license.

"Royalty" means all payments payable by Licensee to the Seller pursuant to Section 13.4 of the License Agreement (including payments pursuant to Section 2(c)(ii) of Amendment No. 6) with respect to all Compounds in the Territory from and after the Closing Date and any payments to the Seller under the License Agreement in lieu of such payments with respect to all Compounds, and any overdue interest on such royalty amounts payable to the Seller pursuant to Section 13.16 of the License Agreement.

9. Trustee Capacity of Wilmington Trust, National Association. Notwithstanding anything contained in the Agreement to the contrary, it is expressly understood and agreed by the parties hereto that (i) this Amendment is executed and delivered by Wilmington Trust, National Association, not individually or personally but solely in its trustee capacity, in the exercise of the powers and authority conferred and vested in it under the trust agreement of the Buyer, (ii) each of the representations, undertakings and agreements in the Agreement made on the part of the Buyer is made and intended not as a personal representation, undertaking and agreement by Wilmington Trust, National Association, but is made and intended for the purpose of binding only the Buyer and, (iii) nothing herein contained shall be construed as creating any liability on Wilmington Trust, National Association, individually or personally, to perform any covenant either expressed or implied contained in the Agreement, all such liability, if any, being expressly waived by the parties hereto and by any Person claiming by, through or under the parties hereto, (iv) Wilmington Trust, National Association has made no investigation as to the accuracy or completeness of any representations and warranties made by the Buyer in the Agreement, and (v) under no circumstances shall Wilmington Trust, National Association be personally liable for the payment of any indebtedness or expenses of the Buyer or be liable for the breach or failure of any obligation, representation, warranty or covenant made or undertaken by the Buyer under the Agreement or any related documents.

[**Signature Page Follows**]

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

SELLER:

CYTOKINETICS, INCORPORATED

By: /s/ Robert I. Blum
Name: Robert I. Blum
Title: President & Chief Executive Officer

BUYER:

RPI FINANCE TRUST

By: Wilmington Trust Company, not in its individual capacity but solely in its capacity as owner trustee

By: /s/ Cynthia L. Major
Name: Cynthia L. Major
Title: Officer

Exhibit 10.21

[*] – CERTAIN INFORMATION IN THIS DOCUMENT HAS BEEN EXCLUDED PURSUANT TO REGULATION S-K, ITEM 601(B)(10). SUCH EXCLUDED INFORMATION IS NOT MATERIAL AND WOULD LIKELY CAUSE COMPETITIVE HARM TO THE REGISTRANT IF PUBLICLY DISCLOSED.

Revenue Participation Right Purchase Agreement

By and Between

Cytokinetics, Incorporated

and

Royalty Pharma Investments 2019 ICAV

Dated as of January 7, 2022

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REVENUE PARTICIPATION RIGHT PURCHASE AGREEMENT

This Revenue Participation Right Purchase Agreement, dated as of January 7, 2022, (this "Agreement"), is made and entered into by and between **Royalty Pharma Investments 2019 ICAV**, an Irish collective asset-management vehicle (the "Buyer"), and **Cytokinetics, Incorporated**, a Delaware corporation (the "Seller").

W I T N E S S E T H:

WHEREAS, the Seller is in the business of, among other things, developing and commercializing the Product; and

Whereas, the Buyer desires to acquire the Revenue Participation Right from the Seller in exchange for payment of the Purchase Price, and the Seller desires to sell the Revenue Participation Right to the Buyer in exchange for the Buyer's payment of the Purchase Price, in each case on the terms and conditions set forth in this Agreement.

Now Therefore, in consideration of the representations, warranties, covenants and agreements set forth herein and for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Seller and the Buyer hereby agree as follows:

ARTICLE 1

PURCHASE, SALE AND ASSIGNMENT OF THE REVENUE PARTICIPATION RIGHT

Section 1.1 Purchase, Sale and Assignment. Upon the terms and subject to the conditions of this Agreement, on the date hereof, in exchange for the Buyer's payment of the Initial Purchase Price and the Buyer's promise to pay any Additional Purchase Price, the Seller shall sell, transfer, assign and convey to the Buyer, and the Buyer shall purchase, acquire and accept from the Seller, all of the Seller's right, title and interest in and to the Revenue Participation Right free and clear of all Liens (other than Liens created by the Buyer). For the avoidance of doubt, the Revenue Participation Right does not represent any right, title or interest in the Intellectual Property Rights.

Section 1.2 Purchase Price. The purchase price for the Revenue Participation Right shall consist of the Initial Purchase Price and any Additional Purchase Price (collectively, the "Purchase Price"). Subject to the conditions precedent set forth in Article 4, on the date hereof, the Buyer shall pay to the Seller an initial purchase price in an amount of Fifty Million Dollars ($50,000,000) (the "Initial Purchase Price"). The Additional Purchase Price, if any, shall be paid in accordance with Section 2.2.

Section 1.3 No Assumed Obligations, Etc. Notwithstanding any provision in this Agreement to the contrary or any other agreement between the parties or their Affiliates, the Buyer is only agreeing, on the terms and conditions set forth in this Agreement, to purchase, acquire and accept the Revenue Participation Right and is not assuming any liability or obligation of the Seller of whatever nature, whether presently in existence or arising or asserted hereafter.

Section 1.4 **True Sale**. It is the intention of the parties hereto that the sale, transfer, assignment and conveyance of the Revenue Participation Right contemplated by this Agreement be, and is, a true, complete, absolute and irrevocable sale, transfer, assignment and conveyance by the Seller to the Buyer of all of the Seller's right, title and interest in and to the Revenue Participation Right. Neither the Seller nor the Buyer intends the transactions contemplated by this Agreement to be, or for any purpose characterized as, a loan from the Buyer to the Seller, a financing transaction or a borrowing. It is the intention of the parties hereto that the beneficial interest in and title to the Revenue Participation Right and any "proceeds" (as such term is defined in the UCC) thereof shall not be part of the Seller's estate in the event of the filing of a petition by or against the Seller under any Bankruptcy Laws. The Seller hereby waives, to the maximum extent permitted by applicable law, any right to contest or otherwise assert that this Agreement does not constitute a true, complete, absolute and irrevocable sale, transfer, assignment and conveyance by the Seller to the Buyer of all of the Seller's right, title and interest in and to the Revenue Participation Right under applicable laws, which waiver shall, to the maximum extent permitted by applicable laws, be enforceable against the Seller in any bankruptcy or insolvency proceeding relating to the Seller. Accordingly, the Seller shall treat the sale, transfer, assignment and conveyance of the Revenue Participation Right as a sale of "accounts" or "payment intangibles" (as appropriate) in accordance with the UCC, and the Seller hereby authorizes the Buyer to file financing statements (and continuation statements with respect to such financing statements when applicable) naming the Seller as the debtor and the seller and the Buyer as the secured party and the buyer in respect of the Revenue Participation Right. Not in derogation of the foregoing statement of the intent of the parties hereto in this regard, and for the purposes of providing additional assurance to the Buyer in the event that, despite the intent of the parties hereto, the sale, transfer, assignment and conveyance contemplated hereby is hereafter held not to be a sale, the Seller does hereby grant to the Buyer, as security for the payment of amounts to the Buyer equal to the Purchase Price (including a market rate of return thereon) and all other obligations of the Seller hereunder, less all Royalty Payments received by the Buyer pursuant to this Agreement, a security interest in and to all right, title and interest in, to and under the Revenue Participation Right, the Royalty, the Royalty Payments (including, for the avoidance of doubt, accounts and payment intangibles (each as defined in the UCC) of the Seller that comprise the Revenue Participation Right or Royalties or proceeds thereof) and the Product Assets and all products and proceeds of any of the foregoing whether now owned or existing or hereafter acquired or arising (the "Back-Up Security Interest"), and the Seller does hereby authorize the Buyer, from and after the date hereof, to file such financing statements (and continuation statements with respect to such financing statements when applicable) in such manner and such jurisdictions as are necessary or appropriate to perfect the Back-Up Security Interest; provided that such Back-Up Security Interest shall be terminated without any action or notice of any party upon termination of this Agreement as provided in Section 7.1, Section 7.2 or Section 7.3. Following the termination of this Agreement as provided in Section 7.1, Section 7.2 or Section 7.3, upon the Seller's request, the Buyer shall, at the expense of the Seller, file a UCC-3 termination statement terminating the security interest granted in this Section.

ARTICLE 2

CLOSING

Section 2.1 **Closing**. The closing shall take place on the date hereof subject to the conditions set forth in Article 4 having been satisfied, or at such other place, time and date as the parties hereto may mutually agree.

Section 2.2 **Payment of Initial Purchase Price and Additional Purchase Price.**

(a) **Payment of Initial Purchase Price**. On the date hereof, the Buyer shall pay to the Seller the Initial Purchase Price by wire transfer of immediately available funds to one or more accounts specified by the Seller.

(b) Payment of oHCM Payment. Following the Initiation of the first Pivotal Clinical Trial in oHCM (the "Triggering oHCM Trial"), the Seller shall provide prompt written notice thereof to the Buyer. Within [*] Business Days following receipt of such notice, the Buyer shall pay Fifty Million Dollars ($50,000,000) by wire transfer of immediately available funds to one or more accounts specified by the Seller (the "oHCM Payment"). No such payment shall be due if this Agreement has been terminated pursuant to Section 7.1, Section 7.2 or Section 7.3 (unless reinstated pursuant to Section 7.5).

(c) Payment of nHCM Payment. Following the Initiation of the first Pivotal Clinical Trial in nHCM (the "Triggering nHCM Trial"), the Seller shall provide prompt written notice thereof to the Buyer. At Seller's option (as indicated in the notice), the Buyer shall pay Fifty Million Dollars ($50,000,000) within [*] Business Days following receipt of such notice (the "nHCM Payment"). No such payment shall be due if this Agreement has been terminated pursuant to Section 7.1, Section 7.2 or Section 7.3 (unless reinstated pursuant to Section 7.5).

Section 2.3 Other Indication Purchase Price. In the event that the Seller intends to develop the Product in any Other Indication and the Product has in Seller's reasonable opinion achieved proof of concept results in a Clinical Trial in such Other Indication, the Seller and the Buyer shall negotiate in good faith any additional purchases of royalties by the Buyer (the payment of which shall be the "Other Indication Purchase Price") with respect to the development of the Product in such Other Indication and amend this Agreement to provide any additional royalties purchased by and payable to the Buyer in consideration for such additional purchases and enter into additional documentation as the Seller and the Buyer may negotiate in good faith. The Seller shall provide to the Buyer such information relating to Clinical Trials in any Other Indication as the Buyer may reasonably request from time to time in connection with the negotiation of the Other Indication Purchase Price.

Section 2.4 Bill of Sale. On the date hereof, the Seller shall deliver to the Buyer a duly executed bill of sale evidencing the sale, transfer, assignment and conveyance of the Revenue Participation Right in form attached hereto as Exhibit A.

Section 2.5 Form W-9. On the date hereof, the Seller shall deliver to the Buyer a valid, properly executed IRS Form W-9 certifying the Seller's U.S. tax identification number and that the Seller is exempt from U.S. federal "backup" withholding tax. The Seller acknowledges that the Buyer may provide or disclose such documentation to the U.S. Internal Revenue Service or other governmental authorities or agencies. The Buyer may request an updated IRS Form W-9 prior to paying the oHCM Payment, the nHCM Payment or any Other Indication Purchase Price.

Section 2.6 [*].

ARTICLE 3

REPRESENTATIONS AND WARRANTIES

Section 3.1 Seller's Representations and Warranties. The Seller represents and warrants to the Buyer that as of the date hereof:

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

(b) Authorization. The Seller has all requisite corporate power and authority to execute, deliver and perform its obligations under this Agreement. The execution, delivery and performance of this Agreement, and the consummation of the transactions contemplated hereby, have been duly authorized by all necessary corporate action on the part of the Seller.

(c) Enforceability. This Agreement has been duly executed and delivered by an authorized officer of the Seller and constitutes the valid and binding obligation of the Seller, enforceable against the Seller in accordance with its terms, except as may be limited by applicable Bankruptcy Laws or by general principles of equity (whether considered in a proceeding in equity or at law).

(d) No Conflicts. The execution, delivery and performance by the Seller of this Agreement and the consummation of the transactions contemplated hereby do not and will not (i) contravene or conflict with the certificate of incorporation or bylaws of the Seller, (ii) contravene or conflict with or constitute a default under any law or Judgment binding upon or applicable to the Seller except for such contraventions, conflicts, breaches or defaults that, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect or contravene or conflict with or constitute a material default under any material agreement binding upon or applicable to the Seller.

(e) Consents. Except for the consents that have been obtained on or prior to the date hereof or filings required by the federal securities laws or stock exchange rules, no consent, approval, license, order, authorization, registration, declaration or filing with or of any Governmental Entity or other Person is required to be done or obtained by the Seller in connection with (i) the execution and delivery by the Seller of this Agreement, (ii) the performance by the Seller of its obligations under this Agreement or (iii) the consummation by the Seller of any of the transactions contemplated by this Agreement.

(f) No Litigation. There is no action, suit, investigation or proceeding pending, or, to the Knowledge of the Seller, threatened (in writing) before any Governmental Entity to which the Seller is a party that, individually or in the aggregate would reasonably be expected to have a Material Adverse Effect.

(g) Compliance.

(i) All applications, submissions, information and data related to the Product submitted or utilized as the basis for any request to the FDA, the EMA, the MHRA or the PMDA by or on behalf of the Seller were true and correct in all material respects as of the date of such submission or request, and any material updates, changes, corrections or modification to such applications, submissions, information or data required under applicable laws or regulations have been submitted to the necessary Regulatory Authorities.

(ii) The Seller has not committed any act, made any statement or failed to make any statement in respect of the Product that would reasonably be expected to provide a basis for the FDA to invoke its policy with respect to "***Fraud, Untrue Statements of Material Facts, Bribery, and Illegal Gratuities***", or any other Regulatory Authority to invoke similar policies, set forth in any applicable laws or regulations.

(iii) The Seller has provided to the Buyer prior to the date hereof true, correct and complete copies of all material written communications sent or received by the Seller and its Affiliates, to or from the FDA, the EMA, the MHRA or the PMDA that relate to the Product since January 1, 2018.

(iv) Since January 1, 2019, (A) there have been no Safety Notices, (B) to the Knowledge of the Seller, there are no unresolved material product complaints with respect to the Product, which would reasonably be expected to result in a Material Adverse Effect, and (C) to the Knowledge of the Seller, there are no facts currently in existence that would, individually or in the aggregate, reasonably be expected to result in a material Safety Notice with respect to any Product. Except as set forth in Schedule 3.1(g) of the Disclosure Schedule, the Seller has not experienced any significant failures in the manufacturing of the Product for clinical use or commercial sale that have not been resolved, or that would, individually or in the aggregate, have had or would reasonably be expected to result in, if such failure occurred again, a Material Adverse Effect.

(v) The Seller is and has been in compliance with all applicable laws administered or issued by the FDA or any similar Regulatory Authority, including the Federal Food, Drug, and Cosmetic Act, applicable requirements in FDA regulations, and any orders issued by FDA or similar Regulatory Authorities, and all other laws regarding ownership, developing, testing, manufacturing, packaging, storage, import, export, disposal, marketing, distributing, promoting, and complaint handling or adverse event reporting for the products of the Seller, except to the extent that such failure to comply with such applicable laws would not reasonably be expected to result in a Material Adverse Effect.

(h) Licenses and Other Agreements.

(i) In-Licenses. There are no In-Licenses.

(ii) Out-Licenses. There are no Out-Licenses other than the Ji Xing Collaboration Agreement (the "Existing Out-License"). There are no sales of royalties or agreements to sell royalties related to the Product other than pursuant to the RTW Agreement. A true, correct and complete copy of the Existing Out-License and a true, correct and complete copy (but for redactions that would not reasonably be expected to impact the Buyer's interest in the Revenue Participation Right, the Royalty, the Product Assets or the Back-Up Security Interest) of the RTW Agreement has been provided to the Buyer by the Seller prior to the date hereof.

(iii) Validity and Enforceability of Out-License. The Existing Out-License is a valid and binding obligation of the Seller and, to the Knowledge of the Seller, the counterparty thereto, enforceable against the Seller and, to the Knowledge of the Seller, the counterparty thereto, as applicable, in accordance with its terms except as may be limited by applicable Bankruptcy Laws or by general principles of equity (whether considered in a proceeding in equity or at law). The Seller has not received any written notice in connection with the Existing Out-License challenging the validity, enforceability or interpretation of any provision of such agreement.

(iv) No Termination. The Seller has not (A) given notice to the counterparty of the termination of the Existing Out-License (whether in whole or in part) or any notice to the counterparty expressing any intention or desire to terminate the Existing Out-License or (B) received from the counterparty thereto any written notice of termination of the Existing Out-License (whether in whole or in part) or any written notice from the counterparty expressing any intention or desire to terminate the Existing Out-License.

(v) No Breaches or Defaults; No Exercise of Certain Rights. There is and has been no material breach or default under any provision of the Existing Out-License or the RTW Agreement either by the Seller or, to the Knowledge of the Seller, by the applicable counterparty thereto, and to the Knowledge of the Seller, there is no event that upon notice or the passage of time, or both, would reasonably be expected to give rise to any breach or default either by the Seller or by the counterparty to each such agreement. With respect to the RTW Agreement, (i) the Seller has not delivered a Funding Request with regard to the First Tranche or the Second Tranche, (ii) executed or delivered the Seller Security Agreement or (iii) sold, transferred or assigned or conveyed the Acquired Intangibles (all terms used in this sentence but not defined in this Agreement having the meanings ascribed to them in the RTW Agreement). The RTW Termination Notice has been delivered to RTW pursuant to and in accordance with the RTW Agreement, and such RTW Termination Notice is the only notice required to terminate the RTW Agreement, which termination of the RTW Agreement shall, without any further action on the part of the Seller or RTW or any other party, become effective within [*] after delivery thereof. A true, correct and complete copy of the RTW Termination Notice has been delivered to the Buyer prior to the date hereof.

(vi) Payments Made. The counterparty of the Existing Out-License has made all payments to the Seller required under the Existing Out-License as of the date hereof. The Seller has made all payments to the counterparty of the RTW Agreement required under the RTW Agreement as of the date hereof.

(vii) No Assignments. The Seller has not consented to any assignment by the counterparty to the Existing Out-License or the RTW Agreement of any of its rights or obligations under the Existing Out-License or the RTW Agreement, as applicable, and, to the Knowledge of the Seller, the counterparty has not assigned any of its rights or obligations under the Existing Out-License or the RTW Agreement, as applicable, to any Person.

(viii) No Indemnification Claims. The Seller has not notified any Person of any claims for indemnification under the Existing Out-License or the RTW Agreement, nor has the Seller received any claims for indemnification under the Existing Out-License or the RTW Agreement.

(ix) No Infringement. The Seller has not received any written notice from, or given any written notice to, the counterparty to the Existing Out-License regarding any infringement of any of the existing Patent Rights licensed thereunder.

(i) No Liens; Title to Revenue Participation Right. None of the Product Rights is subject to any Lien, except for Permitted Liens. Upon payment of the Initial Purchase Price by the Buyer, the Buyer will have acquired, subject to the terms and conditions set forth in this Agreement, good and marketable title to the Revenue Participation Right, free and clear of all Liens (other than Liens created by the Buyer).

(j) Intellectual Property.

(i) Schedule 3.1(j)(i) of the Disclosure Schedule, which has been provided separately to Buyer's counsel, lists all of the existing Patents included within the Patent Rights. Except as set forth on Schedule 3.1(j)(i) of the Disclosure Schedule, the Seller is the sole and exclusive owner of all of the existing Patent Rights. Schedule 3.1(j)(i) of the Disclosure Schedule specifies as to each listed patent or patent application the jurisdictions by or in which each such patent has issued as a patent or such patent application has been filed, including the respective patent or application numbers. Schedule 3.1(j)(i) of the Disclosure Schedule specifies any Person other than the Seller owning or having an interest in such Patent Right, including the nature of such interest.

(ii) The Seller has not received any written notice from any Third Party challenging the inventorship or ownership of the rights of the Seller in and to, or the patentability, validity or enforceability of, any of the existing Patent Rights, or asserting or alleging that the development, manufacture or importation of the Product prior to the date hereof infringed or misappropriated the intellectual property rights of such Third Party or that the development, manufacture, importation, sale, offer for sale or use of the Product will infringe, misappropriate or otherwise violate the intellectual property rights of such Third Party.

(iii) All of the issued patents within the existing Patent Rights are (A) to the Knowledge of the Seller, valid and enforceable, and (B) in full force and effect. None of the issued patents within the existing Patent Rights have lapsed, expired or otherwise terminated. The Seller has not received any notice relating to the lapse, expiration or other termination of any of the issued patents within the existing Patent Rights, and the Seller has not received any written legal opinion that alleges that, an issued patent within any of the existing Patent Rights is invalid or unenforceable.

(iv) The Seller has not received any written notice that there is any, and, to the Knowledge of the Seller, there is no, Person who is or claims to be an inventor under any of the existing Patent Rights who is not a named inventor thereof.

(v) To the Knowledge of the Seller, no Person has infringed, misappropriated or otherwise violated, or is infringing, misappropriating or otherwise violating, any of the existing Patent Rights.

(vi) There is no pending or, to the Knowledge of the Seller, threatened (in writing), adverse actions, claims, suits or proceedings against the Seller or any of its Affiliates involving the Intellectual Property Rights or the Product. The Seller is not a party to any pending and, to the Knowledge of the Seller, there is no threatened litigation, interference, reexamination, opposition, *inter partes* or post-grant review, investigation or like procedure involving any of the existing Patent Rights.

(vii) [*].

(viii) The Seller has paid all maintenance fees, annuities and like payments required as of the date hereof with respect to each of the existing Patent Rights.

(k) Subsidiaries; Indebtedness. Schedule 3.1(k) of the Disclosure Schedule sets forth a complete list of each of (a) the Seller's Subsidiaries and (b) after giving effect to the repayment of the Existing Indebtedness of the Seller on the date hereof, the outstanding Indebtedness of the Seller and its Subsidiaries. Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, the Seller's Subsidiaries are (x) duly incorporated or organized, validly existing and in good standing under its applicable jurisdiction of organization and (y) duly licensed or qualified to do business and in good corporate standing in each jurisdiction in which the nature of the business conducted by it or the character or location of the properties and assets owned, leased or operated by it makes such licensing or qualification necessary.

(l) Foreign Corrupt Practices Act. Neither the Seller nor, to the Knowledge of the Seller, any of its directors, officers, employees or agents, while acting on behalf of the Seller, have, directly or indirectly, made, offered, promised or authorized any payment or gift of any money or anything of value to or for the benefit of any "foreign official" (as such term is defined in the U.S. Foreign Corrupt Practices Act of 1977, as amended (the "FCPA")), foreign political party or official thereof or candidate for foreign political office for the purpose of (i) influencing any official act or decision of such official, party or candidate, (ii) inducing such official, party or candidate to use his, her or its influence to affect any act or decision of a foreign governmental authority, or (iii) securing any improper advantage, in the case of (i), (ii) and (iii) above in order to assist the Seller or any of its Affiliates in obtaining or retaining business for or with, or directing business to, any person. Neither the Seller nor, to the Knowledge of the Seller, any of its directors, officers, employees or agents, while acting on behalf of the Seller, have made or authorized any bribe, improper rebate, payoff, influence payment, kickback or other unlawful payment of funds or received or retained any funds in violation of any applicable law, rule or regulation. The Seller further represents that it has maintained, and has caused each of its Subsidiaries to maintain, systems of internal controls (including, but not limited to, accounting systems, purchasing systems and billing systems) and written policies designed to ensure compliance with the FCPA or any other applicable anti-bribery or anti-corruption law, and designed to ensure that all books and records of the Seller accurately and fairly reflect, in reasonable detail, all transactions and dispositions of funds and assets. To the Knowledge of the Seller, neither the Seller nor any of its officers, directors or employees are the subject of any allegation, voluntary disclosure, investigation, prosecution or other enforcement action by any Governmental Entity related to the FCPA or any other anti-corruption law. [*].

(m) UCC Representation and Warranties. The Seller's exact legal name is, and for the immediately preceding ten (10) years has been, "***Cytokinetics, Incorporated***". The Seller is, and for the prior ten years has been, incorporated in the State of Delaware.

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

(o) Public Company Reporting Obligations. The Seller has filed or furnished (as applicable) with or to the SEC all annual, quarterly and mandatory current reports required to be filed or furnished by the Seller with or to the SEC, and the Seller's financial statements included therein have been or will be prepared in accordance with accounting principles generally accepted in the United States and such financial statements fairly present in all material respects the financial condition and operating results of the Seller as of the dates, and for the periods, indicated therein, subject in the case of the unaudited financial statements to normal year-end audit adjustments and the absence of footnotes.

(p) **Provision of Information**. All written information made available by or on behalf of the Seller, as redacted to remove highly confidential information such as chemical, manufacturing and patient details, to the Buyer or its Affiliates in connection with this Agreement was (when provided) and is (as of the date hereof), to the Knowledge of the Seller, subject solely to such redactions, true and accurate in all material respects; and the Seller has not knowingly or negligently failed to disclose to the Buyer any information related to the Product or the Intellectual Property Rights in its or its Affiliates' control or possession, or of which the Seller is aware, that would be reasonably necessary to make any information related to the Product or the Intellectual Property Rights, as applicable, that has been disclosed to the Buyer prior to the date hereof not misleading in any material respect.

Section 3.2 **Buyer's Representations and Warranties**. The Buyer represents and warrants to the Seller that as of the date hereof:

(a) **Existence; Good Standing**. The Buyer is an Irish collective asset-management vehicle duly organized, validly existing and in good standing under the laws of Ireland. The Buyer is duly licensed or qualified to do business and is in good standing in each jurisdiction in which the nature of the business conducted by it or the character or location of the properties and assets owned, leased or operated by it makes such licensing or qualification necessary, except where the failure to be so licensed or qualified and in good standing has not and would not reasonably be expected to have, either individually or in the aggregate, a material adverse effect on the business of the Buyer or the ability of the Buyer to enter into and to perform its obligations under this Agreement.

(b) **Authorization**. The Buyer has the requisite trust right, power and authority to execute, deliver and perform its obligations under this Agreement. The execution, delivery and performance of this Agreement, and the consummation of the transactions contemplated hereby, have been duly authorized by all necessary action on the part of the Buyer.

(c) **Enforceability**. This Agreement has been duly executed and delivered by an authorized person of the manager of the Buyer and constitutes the valid and binding obligation of the Buyer, enforceable against the Buyer in accordance with its terms, except as may be limited by applicable Bankruptcy Laws or by general principles of equity (whether considered in a proceeding in equity or at law).

(d) **No Conflicts**. The execution, delivery and performance by the Buyer of this Agreement and the consummation of the transactions contemplated hereby do not and will not (i) contravene or conflict with the organizational documents of the Buyer, (ii) contravene or conflict with or constitute a default under any law or Judgment binding upon or applicable to the Buyer except for such contraventions, conflicts, breaches or defaults that, individually or in the aggregate, would not reasonably be expected to have a material adverse effect on the ability of the Buyer to enter into and to perform its material obligations under this Agreement, or (iii) contravene or conflict with or constitute a material default under any material agreement binding upon or applicable to the Buyer.

(e) **Consents**. Except for any filings required by the federal securities laws or stock exchange rules, no consent, approval, license, order, authorization, registration, declaration or filing with or of any Governmental Entity or other Person is required to be done or obtained by the Buyer in connection with (i) the execution and delivery by the Buyer of this Agreement, (ii) the performance by the Buyer of its obligations under this Agreement or (iii) the consummation by the Buyer of any of the transactions contemplated by this Agreement.

(f) No Litigation. There is no action, suit, investigation or proceeding pending or, to the knowledge of the Buyer, threatened (in writing) before any Governmental Entity to which the Buyer is a party that would reasonably be expected to prevent or materially and adversely affect the ability of the Buyer to perform its obligations under this Agreement.

(g) Financing. The Buyer has and will have sufficient cash on hand to pay the Purchase Price in accordance with the terms of this Agreement. The Buyer acknowledges that its obligations under this Agreement are not contingent on obtaining financing.

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

(i) Access to Information. The Buyer acknowledges that it has (a) reviewed Seller's documents and information relating to the Product (including any relevant registration statements and periodic reports filed by the Seller with the SEC) and (b) had the opportunity to ask such questions of, and to receive answers from, representatives of the Seller concerning the Product, in each case, as it deemed necessary to make an informed decision to enter into this Agreement. The Buyer has such knowledge, sophistication and experience in financial and business matters that it is capable of evaluating the risks and merits of entering into the transaction contemplated by this Agreement.

Section 3.3 No Implied Representations and Warranties; Reservation of Rights. THE BUYER ACKNOWLEDGES AND AGREES THAT, OTHER THAN THE EXPRESS REPRESENTATIONS AND WARRANTIES OF THE SELLER SPECIFICALLY CONTAINED IN THIS ARTICLE 3, (A) THERE ARE NO REPRESENTATIONS OR WARRANTIES OF THE SELLER EITHER EXPRESSED OR IMPLIED WITH RESPECT TO THE PATENT RIGHTS, THE REVENUE PARTICIPATION RIGHT OR OTHERWISE AND THAT THE BUYER DOES NOT RELY ON, AND SHALL HAVE NO REMEDIES IN RESPECT OF, ANY REPRESENTATION OR WARRANTY NOT SPECIFICALLY SET FORTH IN THIS ARTICLE 3, AND ALL OTHER REPRESENTATIONS AND WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED, AND (B) NOTHING CONTAINED HEREIN GUARANTEES THAT THE SELLER OR ANY OF ITS AFFILIATES OR LICENSEES WILL RECEIVE MARKETING APPROVAL AND/OR ANY OTHER APPROVALS NECESSARY FOR THE SALE OR COMMERCIALIZATION OF ANY PRODUCT, THAT THE SELLER WILL ACHIEVE ANY SALES OF THE PRODUCT OR THAT SALES OF THE PRODUCT OR THE AGGREGATE ROYALTIES DUE TO THE BUYER WILL ACHIEVE ANY SPECIFIC AMOUNT. EXCEPT FOR THE REVENUE PARTICIPATION RIGHT, THE BACK-UP SECURITY INTEREST AND BUYER'S RIGHTS UNDER SECTION 5.5, THE BUYER FURTHER ACKNOWLEDGES AND AGREES THAT NO LICENSES, ASSIGNMENTS, OR OTHER RIGHTS UNDER ANY ASSETS (INCLUDING THE PATENT RIGHTS OR ANY OTHER INTELLECTUAL PROPERTY RIGHTS) OF THE SELLER AND ITS AFFILIATES OR RIGHTS RELATED THERETO ARE GRANTED PURSUANT TO THIS AGREEMENT, INCLUDING BY IMPLICATION, ESTOPPEL, EXHAUSTION OR OTHERWISE.

ARTICLE 4

CONDITIONS TO CLOSING

Section 4.1 Conditions to the Buyer's Obligations. The obligations of the Buyer to consummate the transactions contemplated hereunder on the date hereof are subject to the satisfaction or waiver, at or prior to the date hereof, of each of the following conditions precedent:

(a) The Seller shall have performed and complied in all material respects with all agreements, covenants, obligations and conditions required to be performed and complied with by it under this Agreement on the date hereof, and the Buyer shall have received a certificate executed by a duly authorized officer of the Seller on the date hereof certifying on behalf of the Seller to the effect of the foregoing.

(b) The representations and warranties of the Seller contained in Section 3.1 are true and correct in all material respects on the date hereof; provided, that to the extent that any such representation or warranty is qualified by the term "material" or "Material Adverse Effect" such representation or warranty (as so written, including the term "material" or "Material Adverse Effect") is true and correct in all respects. The Buyer shall have received a certificate executed by an authorized officer of the Seller on the date hereof certifying on behalf of the Seller to the effect of the foregoing.

(c) The Seller shall have delivered to the Buyer the Seller's duly executed RP Loan Agreement.

(d) The Buyer shall have received a valid, properly executed Internal Revenue Service Form W-9 certifying that the Seller is exempt from U.S. federal "backup" withholding Tax.

(e) The Seller shall have delivered to the Buyer the legal opinions of Cooley LLP and Sullivan & Worcester LLP, as corporate counsel to the Seller and special counsel to the Seller, respectively, in substantially the form attached hereto as Exhibit B and Exhibit C.

(f) The Buyer shall have received a certificate of the Secretary or an Assistant Secretary of the Seller, dated the date hereof, certifying as to (i) the incumbency of each officer of each such Seller executing this Agreement and (ii) the attached thereto copies of (A) the Seller's certificate of incorporation, (B) bylaws and (C) resolutions adopted by the Seller's Board of Directors authorizing the execution and delivery and performance by the Seller of this Agreement and the consummation by the Seller of the transactions contemplated hereby.

(g) There shall not have been issued and be in effect any Judgment of any Governmental Entity enjoining, preventing or restricting the consummation of the transactions contemplated by this Agreement.

(h) There shall not have been instituted or be pending any action or proceeding by any Governmental Entity or any other Person (i) challenging or seeking to make illegal, to delay materially or otherwise directly or indirectly to restrain or prohibit the consummation of the transactions contemplated hereby, (ii) seeking to obtain material damages in connection with the transactions contemplated hereby or (iii) seeking to restrain or prohibit the Buyer's purchase, or the Seller's sale, of the Revenue Participation Right.

(i) The Seller shall have delivered to the Buyer a payoff letter from Silicon Valley Bank and Oxford Finance LLC in respect of the Existing Indebtedness.

(j) The Seller shall have delivered to the Buyer evidence that (i) the Liens securing the Existing Indebtedness have been (or will be on the date hereof) terminated and (ii) the documents and/or filings evidencing the perfection of such Liens, including without limitation any financing statements and/or control agreements, have or will, concurrently with the initial Credit Extension (as defined in the RP Loan Agreement), be terminated.

(k) The Seller shall have delivered an irrevocable notice of termination of the RTW Agreement to RTW (the "RTW Termination Notice") in accordance with the RTW Agreement and shall have provided to the Buyer evidence of delivery of such notice.

Section 4.2 Conditions to the Seller's Obligations. The obligations of the Seller to consummate the transactions contemplated hereunder on the date hereof are subject to the satisfaction or waiver, at or prior to the date hereof, of each of the following conditions precedent:

(a) The Buyer shall have performed and complied in all material respects with all agreements, covenants, obligations and conditions required to be performed and complied with by it under this Agreement on the date hereof, and the Seller shall have received a certificate executed by a duly authorized person of RP Management, LLC, as administrator of the Buyer on the date hereof certifying on behalf of the Buyer to the effect of the foregoing.

(b) The representations and warranties of the Buyer contained in Section 3.2 are true and correct in all material respects as of the date hereof; provided, that to the extent that any such representation or warranty is qualified by the term "material," or "material adverse effect" such representation or warranty (as so written, including the term "material" or "material adverse effect") is true and correct in all respects. The Seller shall have received a certificate executed by an authorized person of RP Management, LLC, as manager of the Buyer on the date hereof certifying on behalf of the Seller to the effect of the foregoing.

(c) The Seller shall have received a valid, properly executed Internal Revenue Service Form W-8BEN-E certifying that the Buyer is exempt from U.S. federal withholding Tax on royalties and eligible for a 0% rate of withholding pursuant to the U.S.-Ireland tax treaty.

(d) The Seller shall have received a certificate of the Secretary of the manager of the Buyer, dated the date hereof, certifying as to the incumbency of the officer executing this Agreement on behalf of the Buyer.

(e) The Buyer shall have delivered to the Seller the Buyer's duly executed RP Loan Agreement.

(f) There shall not have been issued and be in effect any Judgment of any Governmental Entity enjoining, preventing or restricting the consummation of the transactions contemplated by this Agreement.

(g) There shall not have been instituted or be pending any action or proceeding by any Governmental Entity or any other Person (i) challenging or seeking to make illegal, to delay materially or otherwise directly or indirectly to restrain or prohibit the consummation of the transactions contemplated hereby, (ii) seeking to obtain material damages in connection with the transactions contemplated hereby or (iii) seeking to restrain or prohibit the Buyer's purchase, or the Seller's sale, of the Revenue Participation Right.

ARTICLE 5

COVENANTS

Section 5.1 Reporting.

(a) From and after the date hereof, the Seller shall provide the Buyer (or Buyer's counsel as provided below) reports (the "Update Report") setting forth the Intellectual Property Updates, Regulatory Updates, Clinical Updates, Commercial Updates and any material CMC updates, in each case, with respect to the most recently ended calendar quarter on or prior to the Quarterly Deadline for such calendar quarter. The Seller shall also provide the Buyer with such additional information regarding the updates included in each Update Report as the Buyer may reasonably request from time to time. The Seller shall include in each Update Report as applicable any details as to the achievement of any development, sales, regulatory or other milestone event set forth in each Out-License. The Seller shall prepare and maintain, shall cause its Affiliates (if applicable) to prepare and maintain, and use Specified Efforts to include in any future Out-License a provision requiring any counterparty to any such Out-License of the Seller or the Seller's Affiliates to prepare and maintain, reasonably complete and accurate records of the information to be disclosed in each Update Report and to disclose such information to Seller to enable the disclosures of such information in each Update Report, as contemplated herein. [*]. All Update Reports, and the Confidential Information contained therein, shall be the Confidential Information of Seller and subject to the obligations of confidentiality set forth in Article 8. Notwithstanding the foregoing, (i) in lieu of providing any written Update Reports, at the option of the Seller, the Seller may provide such updates at quarterly telephonic meetings with the representatives of the Buyer, and (ii) the Seller may limit disclosure of any Intellectual Property Updates to Buyer's counsel.

(b) The Seller may redact or otherwise exclude from any Update Report (i) any information, the redaction or exclusion of which is reasonably required to comply with applicable laws (including those related to patient information and privacy laws) or confidentiality provisions of any Out-License and (ii) any information that does not relate to the Revenue Participation Right, the Patent Rights or the Product; provided that the Seller shall provide to the Buyer a reasonable summary of any information that is redacted, to the extent permitted by applicable law and, solely in the case of information falling under clause (ii) above, to the extent permitted by any obligations of confidentiality to any Third Party.

Section 5.2 Royalty Payments; Royalty Reports; Royalty Suspension Event.

(a) From and after the date hereof, the Seller shall pay to the Buyer the Royalty Payment, without any setoff or offset (except as required pursuant to Section 9.16), for such calendar quarter on or prior to the Quarterly Deadline; provided that for any Net Sales made by the counterparty to any Out-License for which payment is received by the Seller fewer than [*] calendar days prior to the Quarterly Deadline, such payment to the Buyer will be paid with the following calendar quarter's Royalty Payment.

(b) If any amounts payable by the Seller shall be overdue for [*] Business Days (other than any such unpaid amounts arising as a result of late or improper reporting or late payment by a Licensee or are otherwise subject to a good faith dispute), the Seller shall additionally pay to the Buyer simple interest on the sum outstanding at the rate per annum equal to the lesser of (i) the sum of [*] plus the prime rate for the date that payment was due, as published by The Wall Street Journal, Eastern U.S. edition and (ii) the highest rate permitted by law shall apply. The payment of such interest shall not prevent the Buyer from exercising any other rights it may have as a consequence of the lateness of any payment.

(c)

(i) Concurrently with the payment of each Royalty Payment, the Seller shall deliver a written report setting forth in reasonable detail, (i) the calculation of the Royalty Payment payable to the Buyer for the prior calendar quarter identifying, the number of units of the Product sold by the Seller and its Affiliates and, to the extent available, each counterparty to any Out-License, gross sales generated by or on behalf of the Seller and any of its Affiliates and each counterparty to any Out-License, and a break-down of all permitted deductions from gross sales used to determine Net Sales and the Royalty Payment due to the Buyer and (ii) the cumulative year-to-date aggregate Net Sales for the Product through the end of the prior calendar quarter (the "Royalty Report"); provided that to the extent a counterparty under the Out-License has not provided any requisite information in respect of the Royalty Report with respect to a calendar quarter by the [*] calendar day prior to the Quarterly Deadline, the Seller may elect to provide the information in respect of Net Sales by such counterparty in the following calendar quarter's Royalty Report. The Royalty Report shall be in a form agreed by the parties and reasonably acceptable to the Buyer and the Seller and, to the extent permitted under any applicable confidentiality or disclosure obligations, shall also have attached copies of any royalty reports received by the Seller from Licensees under any Out-Licenses.

(ii) The Seller shall use Specified Efforts to include in each future Out-License a provision requiring the counterparty to such Out-License to prepare and maintain reasonably complete and accurate records of the information to be disclosed in each Royalty Report, and to disclose such information to the Seller to enable the disclosures of such information in each Royalty Report, as contemplated herein. The Seller shall use Specified Efforts to obtain in a timely manner from each such counterparty any information to be disclosed in each Royalty Report, consistent with the terms of the applicable Out-License(s).

(d) The Seller shall be permitted to make prepayments of the Royalty (or apply a portion or all of the Overpaid Royalty, if any) hereunder which shall be credited to future Royalty Payments in such order as directed by the Seller in connection with any such prepayment (or such application in the case of Overpaid Royalty).

(e) [*].

Section 5.3 Disclosures; Public Announcement. The parties shall agree upon the Press Release to be issued announcing this Agreement and the other Transaction Agreements. Except for the Press Release, the Seller's Current Report on Form 8-K describing the material terms of this Agreement, the other Transaction Agreements and the transactions contemplated by this Agreement and the other Transaction Agreements or any other public announcement using substantially the same disclosure as such Press Release or Form 8-K, neither the Buyer nor the Seller shall, and each party hereto shall cause its respective Representatives, Affiliates and Affiliates' Representatives not to, issue a press release or other public announcement or otherwise make any public disclosure with respect to this Agreement or the purchase of the Revenue Participation Right without the prior written consent of the other party hereto (which consent shall not be unreasonably withheld or delayed), except as may be required by applicable law, regulation or stock exchange rule (in which case the party hereto required to make the press release or other public announcement or disclosure shall allow the other party hereto reasonable time to comment on such press release or other public announcement or disclosure in advance of such issuance); provided that (a) no review or consent shall be required with respect to disclosures by either party hereto otherwise previously approved pursuant to this Section 5.3 and (b) notwithstanding anything herein to the contrary, each party hereto may, without the review or consent of the other party hereto, disclose (and nothing herein shall be construed to restrict either party hereto from disclosing) the Purchase Price and the amount and nature of the Revenue Participation Right (and related accounting disclosures of the transactions contemplated hereby) in such party's periodic reports and financial statements.

Section 5.4 Inspections and Audits of the Seller. From and after the date hereof, upon at least [*] written notice and during normal business hours, no more frequently than once in any [*] period, the Buyer may cause an inspection and/or audit by an independent public accounting firm reasonably acceptable to the Seller to be made of the Seller's books of account for the [*] prior to the audit for the purpose of determining the correctness of Royalty Payments made under this Agreement. Upon the Buyer's reasonable request not more than [*] period while any Out-License remains in effect, the Seller shall exercise any rights it may have under any Out-License relating to the Product to cause an inspection and/or audit by an independent public accounting firm reasonably acceptable to the Seller to be made of the books of account of any counterparty thereto for the purpose of determining the correctness of Royalty Payments paid under this Agreement. Seller shall notify Buyer in writing if it initiates an inspection and/or audit of the books of accounts of any counterparty to an Out-License to the extent such inspection and/or audit is related to the Royalty Payments, and shall provide to Buyer a redacted copy of any report relating thereto within [*] Business Days of receipt thereof; provided, that any redactions to such report shall not include any information necessary to determine the correctness of the calculation of the Royalty Payments paid under this Agreement. All of the expenses of any inspection or audit requested by the Buyer hereunder (including the fees and expenses of such independent public accounting firm designated for such purpose) shall be borne by the Buyer, unless the independent public accounting firm determines that Royalty Payments previously paid were incorrect by an amount greater than [*] of the Royalty actually paid for the period reviewed by such public accounting firm in the aggregate, in which case such expenses shall be borne by the Seller. The terms on which any such independent public accounting firm is engaged shall provide that such independent public accounting firm may not disclose the confidential information of the Seller or any such counterparty to any Out-License relating to the Product to the Buyer, except to the extent such disclosure is either necessary to determine the correctness of Royalty Payments or such confidential information otherwise would be included in a Royalty Report. All information obtained by the Buyer as a result of any such inspection or audit shall be Confidential Information of the Seller subject to Article 8 and the independent public accounting firm shall be considered a Representative of Buyer for purposes of Article 8. Any payment owed by one party to another as a result of the audit (except to the extent the result of such audit is being disputed in good faith by the Seller) shall be made within [*] Business Days of receipt of the audit report. No royalty period will be subject to an audit more than once.

Section 5.5 Intellectual Property Matters.

(a) If the Seller recovers and actually receives cash proceeds as damages from a Third Party in an action brought for such Third Party's infringement of any Patent Rights in connection with the exploitation of any product, therapy or service intended for use, or actually used, and that actually or prospectively competes with the Product, where such damages (whether in the form of judgment or settlement) are awarded for such infringement of such Patent Rights relating to the Product, (i) cash proceeds will be allocated first to the reimbursement of any expenses incurred by the Seller (and/or its Licensee) in bringing such action (including attorney's fees) not already reimbursed from other damages awarded under the same action, then (ii) any remaining amount of such cash proceeds will be reduced, if applicable, to comply with allocation of recovered damages with licensors of such Patent Rights required under any In-Licenses or licensees of such Patent Rights under any out-licenses, if any, and (iii) any residual cash proceeds of such damages after application of (i) and (ii) will be treated as Net Sales of the Product for purposes of determining the amount of Royalties payable to the Buyer under this Agreement.

(b) The Seller shall provide to the Buyer a copy of any written notice received by the Seller from a Third Party alleging or claiming that the making, having made, using, importing, offering for sale or selling of a Product infringes or misappropriates any Patents or other intellectual property rights of such Third Party, together with copies of material correspondence sent or received by the Seller related thereto, as soon as practicable and in any event not more than [*] Business Days following such delivery or receipt.

(c) The Seller shall promptly inform the Buyer of any infringement by a Third Party of any Patent Right of which any of the individuals named in the definition of "Knowledge of the Seller" (or the successors of such Person at the Seller) becomes aware. Without limiting the foregoing, the Seller shall provide to the Buyer a copy of any written notice of any suspected infringement of any Patent Rights delivered or received by the Seller, as well as copies of material correspondence related thereto, as soon as practicable and in any event not more than [*] Business Days following such delivery or receipt.

(d) Within [*] Business Days of initiating, or permitting a Licensee to initiate, an enforcement action regarding any suspected infringement by a Third Party of any Patent Right, the Seller shall provide the Buyer with written notice of such enforcement action.

Section 5.6 Efforts to Complete Clinical Trials and Commercialize the Product. The Seller shall (directly or indirectly through an Affiliate or Licensee or other Third Party) use Specified Efforts to conduct Clinical Trials and any other relevant non-clinical trials and studies and obtain Marketing Approval from [*] for the Product: (x) after the date hereof, in at least one Applicable Indication, and (y) after the payment of the oHCM Payment, the nHCM Payment and the Other Indication Purchase Price, in oHCM, nHCM and the Other Indication, respectively. Without limiting the foregoing, if the primary endpoint(s) for the Triggering oHCM Trial and the Triggering nHCM Trial are met, the Seller shall use Specified Efforts to submit an NDA or an sNDA with the [*] for the Product in oHCM or nHCM, as applicable. After the payment of the Other Indication Purchase Price, if the primary endpoint(s) for the first Pivotal Clinical Trial in the Other Indication are met, the Seller shall use Specified Efforts to submit an NDA or an sNDA with the [*] for the Product in the Other Indication. Following the issuance of a Marketing Approval of the Product, the Seller (or its Affiliates or a Licensee) shall use Specified Efforts to Commercialize the Product in the indication(s) in such jurisdiction, as applicable. Unless otherwise agreed pursuant to Section 2.3, the Seller shall have no obligation to research, develop or Commercialize the Product for any Other Indications.

Section 5.7 Further Assurances. The Seller and the Buyer agree to execute and deliver such other documents, certificates, agreements and other writings and to take such other actions as may be reasonably necessary in order to give effect to the transactions contemplated by this Agreement.

Section 5.8 In-Licenses.

(a) Promptly (and in any event within [*] Business Days), the Seller shall provide the Buyer with (i) true, correct and complete copies of each In-License executed after the date hereof, and (ii) true, correct and complete copies of each material amendment, supplement, modification to, or written waiver under, an In-License. All materials delivered by the Seller to the Buyer pursuant to this Section 5.8(a) shall be the Confidential Information of Seller and subject to the obligations of confidentiality set forth in Article 8. The Seller may redact or otherwise exclude from any of the foregoing (x) any information, the redaction or exclusion of which is reasonably required to comply with applicable laws (including those related to patient information and privacy laws) and (y) any information that does not relate to the Revenue Participation Right, the Patent Rights or the Product, to the extent required by any obligations of confidentiality to any Third Party; provided that the Seller shall provide to the Buyer a reasonable summary of any information that is redacted to the extent permitted by such obligation.

(b) The Seller shall use Specified Efforts to comply in all material respects with its obligations under any material In-Licenses it enters into and shall not intentionally take any action or forego any action that would reasonably be expected to result in a material breach thereof. Promptly, and in any event within [*] Business Days, after receipt of any (written or oral) notice from a counterparty to any material In-License or its Affiliates of an alleged material breach under any In-License, the Seller shall provide the Buyer a copy thereof. The Seller shall use Specified Efforts to cure any material breaches by it under any material In- License and shall give written notice to the Buyer upon curing any such breach. The Seller shall provide the Buyer prompt written notice within [*] Business Days of any party's material breach of its obligations under any In-License of which any of the individuals named in the definition of "Knowledge of the Seller" becomes aware, to the extent such material breach is directly related to the Buyer's rights or Seller's obligations to Buyer under this Agreement. The Seller shall not terminate any In-License without providing the Buyer prior written notice.

Section 5.9 Out-Licenses; RTW Termination.

(a) The Seller may grant, at its sole discretion, Out-Licenses to any Affiliate or Third Party in all or any portion of the world without the Buyer's consent; provided that such Out-License shall not assign or otherwise convey title to or impose any Lien (other than customary customs, purchase money warehousemen's and similar Liens on inventory), in favor of any Third Party on any Product Rights, Product Assets or the Revenue Participation Right, other than the grant of the license or sublicense (including the right to exercise Seller's rights under any associated upstream license to the Seller) to the Licensee.

(b) The Seller shall provide the Buyer prompt written notice within [*] Business Days of any counterparty's material breach of its obligations under any Out-License of which any of the individuals named in the definition of "Knowledge of the Seller" becomes aware, to the extent such material breach is directly related to the Buyer's rights or Seller's obligations to Buyer under this Agreement.

(c) The Seller shall include in all Out-Licenses (other than the Existing Out-License) provisions permitting the Seller to audit such licensee and shall use [*] to include terms and conditions consistent in all material respects with the Buyer's rights to audit the Seller set forth in Section 5.4.

(d) The Seller shall provide the Buyer with written notice following the termination of any Out-License.

(e) Promptly (and in any event within [*] Business Days), the Seller shall provide the Buyer with (i) true, correct and complete copies of each Out-License executed after the date hereof, and (ii) true, correct and complete copies of each material amendment, supplement, modification to, or written waiver under, an Out-License. All materials delivered by the Seller to the Buyer pursuant to this Section 5.9(e) shall be the Confidential Information of Seller and subject to the obligations of confidentiality set forth in Article 8. The Seller may redact or otherwise exclude from any of the foregoing (x) any information, the redaction or exclusion of which is reasonably required to comply with applicable laws (including those related to patient information and privacy laws) and (y) any information that does not relate to the Revenue Participation Right, the Patent Rights or the Product, to the extent required by any obligations of confidentiality to any Third Party; provided that the Seller shall provide to the Buyer a reasonable summary of any information that is redacted to the extent permitted by such obligation.

(f) The Seller shall not rescind, revoke, amend or otherwise modify the RTW Termination Notice without the prior written consent of the Buyer, and the Seller shall not, directly or indirectly, take any actions that could reasonably be expected to delay or otherwise negatively impact the termination of the RTW Agreement.

Section 5.10 Negative Pledge; Preservation of Assets; Intercreditor Matters. Prior to the Payment Milestone Date, the Seller shall not, and shall not permit any of its Affiliates to, create, incur, assume or suffer to exist any Lien on the Revenue Participation Right, the Royalty, the Royalty Payments or any of the Product Assets, except for (i) the Back-Up Security Interest and (ii) Permitted Liens. For the avoidance of doubt, nothing herein shall restrict the Seller or any of its Affiliates from incurring unsecured Indebtedness or Indebtedness secured by assets that are not Product Assets or the Revenue Participation Right. In connection with the incurrence of any secured Indebtedness permitted under this Agreement, at the request of the Seller, Buyer shall without undue delay enter into, an Acceptable Intercreditor Agreement with the applicable Senior Debt Provider(s).

Section 5.11 No Impairment. Notwithstanding anything herein to the contrary, the Seller shall not enter into any contracts or arrangements, or amend, supplement, waive any rights under or otherwise modify any contracts or arrangements with the intent to circumvent the provisions of this Agreement. For the avoidance of doubt, this Section 5.11 shall not restrict the incurrence of (x) any Permitted Secured Indebtedness, any Permitted Liens or any Indebtedness not prohibited hereunder or (y) any licenses (including, without limitation, any In-Licenses or Out-Licenses) not prohibited hereunder.

ARTICLE 6

INDEMNIFICATION

Section 6.1 General Indemnity.

(a) The Seller hereby agrees to indemnify, defend and hold harmless the Buyer and its Affiliates and its and their directors, managers, trustees, officers, agents and employees (the "Buyer Indemnified Parties") from, against and in respect of all Loss suffered or incurred by the Buyer Indemnified Parties to the extent arising out of or resulting from (i) any breach of any of the representations or warranties (in each case, when made) of the Seller provided in this Agreement or (ii) any breach of any of the covenants or agreements of the Seller in this Agreement.

(b) The Buyer hereby agrees to indemnify, defend and hold harmless the Seller and its Affiliates and their directors, officers, agents and employees (the "Seller Indemnified Parties") from, against and in respect of all Loss suffered or incurred by the Seller Indemnified Parties to the extent arising out of or resulting from (i) any breach of any of the representations or warranties (in each case, when made) of the Buyer provided in this Agreement or (ii) any breach of any of the covenants or agreements of the Buyer in this Agreement.

Section 6.2 Notice of Claims. If either a Buyer Indemnified Party, on the one hand, or a Seller Indemnified Party, on the other hand (such Buyer Indemnified Party on the one hand and such Seller Indemnified Party on the other hand being hereinafter referred to as an "Indemnified Party"), has suffered or incurred any Loss for which indemnification may be sought under this Article 6, the Indemnified Party shall so notify the other party from whom indemnification is sought under this Article 6 (the "Indemnifying Party") promptly in writing describing such Loss, the amount or estimated amount thereof, if known or reasonably capable of estimation, and the method of computation of such Loss, all with reasonable particularity and containing a reference to the provisions of this Agreement in respect of which such Loss shall have occurred. If any claim, action, suit or proceeding is asserted or instituted by a Third Party (a "Third Party Claim") with respect to which an Indemnified Party intends to claim any Loss under this Article 6, such Indemnified Party shall promptly notify the Indemnifying Party of such claim, action, suit or proceeding and tender to the Indemnifying Party the defense of such claim, action, suit or proceeding. A failure by an Indemnified Party to give timely notice and to tender the defense of such claim, action, suit or proceeding in a timely manner pursuant to this Section 6.2 shall not limit the obligation of the Indemnifying Party under this Article 6, except to the extent such Indemnifying Party is actually prejudiced thereby.

Section 6.3 Limitations on Liability. Except for claims arising from a breach of confidentiality obligations under Article 8 or in cases of fraud, gross negligence, or willful misconduct, the indemnification provided for in this Article 6 shall be subject to the following limitations:

(a) The Seller's maximum liability for breaches of representations or warranties pursuant to Section 6.1(a)(i) shall not exceed an amount equal to [*].

(b) The Buyer's maximum liability pursuant to Section 6.1(b) shall not exceed [*].

(c) Except for claims arising from a breach of confidentiality obligations under Article 8 or in cases of fraud, gross negligence, or willful misconduct, no party hereto shall be liable for any lost profits or revenue, lost opportunity or consequential, punitive, special or incidental damages (and no claim for indemnification hereunder shall be asserted) as a result of any breach or violation of any representation, warranty, covenant or agreement of such party (including under this Article 6) in or pursuant to this Agreement. In connection with the foregoing, the parties hereto acknowledge and agree that (i) the Buyer's damages, if any, for any such action or claim will typically include Losses for payments of the Royalty Payments that the Buyer was entitled to receive in respect of its Revenue Participation Right but did not receive timely or at all due to such indemnifiable event and (ii) the Buyer shall be entitled to make claims for all such missing or delayed payments of Royalties as Losses hereunder, and such missing or delayed Royalties shall not be deemed consequential, punitive, special, indirect or incidental damages.

Section 6.4 Third Party Claims. Upon providing notice to an Indemnifying Party by an Indemnified Party pursuant to Section 6.2 of the commencement of any Third Party Claim with respect to which such Indemnified Party intends to claim any Loss under this Article 6, such Indemnifying Party shall have the right to defend such claim, at such Indemnifying Party's expense and with counsel of its choice reasonably satisfactory to the Indemnified Party. If the Indemnifying Party assumes the defense of such claim, the Indemnified Party shall, at the request of the Indemnifying Party, use commercially reasonable efforts to cooperate in such defense; provided, that the Indemnifying Party shall bear the Indemnified Party's reasonable out-of-pocket costs and expenses incurred in connection with such cooperation. So long as the Indemnifying Party is conducting the defense of such claim as provided in this Section 6.4, the Indemnified Party may retain separate co-counsel at its expense and may participate in the defense of such claim; provided, that, if the Indemnifying Party and the Indemnified Party have conflicting interests or different defenses available with respect to such Third Party Claim, the Indemnified Party may hire its own separate counsel (provided that such counsel is not reasonably objected to by the Indemnifying Party) with respect to such Third Party Claim and the related action or suit, and the reasonable fees and expenses of such counsel shall be considered Losses for purposes of this Agreement. Neither the Indemnified Party nor the Indemnifying Party shall consent to the entry of any Judgment or enter into any settlement with respect to such claim without the prior written consent of the other; provided that the consent of the Indemnified Party shall not be required if such Judgment or settlement (a) provides for the payment by the Indemnifying Party of money as sole relief (if any) for the claimant (other than customary and reasonable confidentiality obligations relating to such claim, Judgment or settlement), (b) results in the full and general release of the Indemnified Party from all liabilities arising out of, relating to or in connection with such claim and (c) does not involve a finding or admission of any violation of any law, rule, regulation or Judgment, or the rights of any Person, and has no effect on any other claims that may be made against the Indemnified Party. In the event the Indemnifying Party does not or ceases to conduct the defense of such claim as so provided, (i) the Indemnified Party may defend against, and consent to the entry of any Judgment or enter into any settlement with respect to, such claim in any matter it may reasonably deem to be appropriate, (ii) the Indemnifying Party shall reimburse the Indemnified Party promptly and periodically for the reasonable out-of-pocket costs of defending against such claim, including reasonable attorneys' fees and expenses against reasonably detailed invoices, and (iii) the Indemnifying Party shall remain responsible to any Losses the Indemnified Party may suffer as a result of such claim to the full extent provided in this Agreement. Any party's assumption of the defense of any Third Party Claim can be made with a reservation of the right to contest the right of Indemnified Party to be indemnified with respect to such claim under this Agreement, and a party's consent to any settlement of a Third Party Claim shall not be used as evidence of the truth of the allegations in any Third Party Claim or the merits of such Third Party Claim. Furthermore, the existence of any Third Party Claim shall not create a presumption of any breach by a party to this Agreement of any of its representations, warranties or covenants set forth in this Agreement.

Section 6.5 **Exclusive Remedy**. Except as set forth in Section 9.13, the rights of the parties hereto pursuant to (and subject to the conditions of) this Article 6 shall be the sole and exclusive remedy of the parties hereto and their respective Affiliates with respect to any Loss (whether based in contract, tort or otherwise) resulting from or relating to any breach of the representations, warranties covenants and agreements made under this Agreement or any certificate, document or instrument delivered hereunder, and each party hereto hereby waives, to the fullest extent permitted under applicable law, and agrees not to assert any other claim or action in respect of any such breach. Notwithstanding the foregoing, claims for common law fraud shall not be waived or limited in any way by this Article 6.

ARTICLE 7

TERMINATION

Section 7.1 **Mutual Termination**. This Agreement may be terminated at any time by mutual written agreement of the Buyer and the Seller.

Section 7.2 **Automatic Termination.** Unless earlier terminated as provided in Section 7.1 or Section 7.3, this Agreement shall continue in full force and effect until the later of (i) [*] days after such time as the Seller is no longer obligated to pay any Royalties under this Agreement (following, for the avoidance of doubt, Marketing Approval by the FDA for the Product) and (ii) [*] after the occurrence of a Royalty Suspension Event if Marketing Approval by the FDA is not received for either Applicable Indication by such date, at which point, in either case, this Agreement shall automatically terminate, except with respect to any rights that have accrued prior to such termination.

Section 7.3 **Termination Upon Product Failure**. Either the Seller or the Buyer may terminate this Agreement upon [*] Business Days' prior written notice following the occurrence of a Product Failure.

Section 7.4 **Survival**. Notwithstanding anything to the contrary in this Article 7, the following provisions shall survive termination of this Agreement: Section 1.4 (True Sale), Section 5.3 (Disclosures), Section 5.4 (Inspections and Audits of the Seller), Article 6 (Indemnification), Section 7.4 (Survival), Section [*], Article 8 (Confidentiality) and Article 9 (Miscellaneous). Termination of this Agreement shall not relieve any party of liability in respect of breaches under this Agreement by any party on or prior to termination. Notwithstanding anything in this Agreement to the contrary, Section 9.14 (Relationship of the Parties), Section 9.16 (Withholding) and Section 9.17 (Tax Treatment) shall survive until [*] days after the expiration of the applicable statute of limitations.

[*]

ARTICLE 8

CONFIDENTIALITY

Section 8.1 Confidentiality. Except to the extent expressly authorized by this Agreement or otherwise agreed in writing by the parties, the parties hereto agree that, for the term of this Agreement and for [*], each party (the "Receiving Party") shall keep confidential and shall not publish or otherwise disclose or transfer and shall not use for any purpose other than as provided for in this Agreement (which includes the exercise of any rights or the performance of any obligations hereunder) any information furnished to it by or on behalf of the other party (the "Disclosing Party") directly relating to the Product, the Revenue Participation Right, the Royalty or the transaction contemplated hereunder and delivered pursuant to this Agreement (such information, "Confidential Information" of the Disclosing Party), except for that portion of such information that:

(a) was already known to the Receiving Party, other than under an obligation of confidentiality, at the time of disclosure by the Disclosing Party;

(b) was generally available to the public or otherwise part of the public domain at the time of its disclosure to the Receiving Party;

(c) became generally available to the public or otherwise part of the public domain after its disclosure, other than through any act or omission of the Receiving Party or its Representatives in breach of this Agreement;

(d) is independently developed by the Receiving Party or any of its Affiliates, as evidenced by written records, without the use or reference of the Confidential Information;

(e) was disclosed to the Receiving Party, other than under an obligation of confidentiality by a Third Party who had no obligation to the Disclosing Party not to disclose such information to others; or

(f) is subsequently disclosed to the Receiving Party on a non-confidential basis by a Third Party without obligations of confidentiality with respect thereto.

Section 8.2 Authorized Disclosure. Either party may disclose Confidential Information to the extent such disclosure is reasonably necessary in the following situations:

(a) prosecuting or defending litigation;

(b) complying with applicable laws and regulations, including regulations promulgated by a global stock market or securities exchanges;

(c) complying with a valid order of a court of competent jurisdiction or other Governmental Entity;

(d) for regulatory, Tax or customs purposes;

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

(f) disclosure to its Affiliates and Representatives on a need-to-know basis, provided that each of such recipients of Confidential Information must be bound by customary obligations of confidentiality and non-use at least as stringent as those imposed upon the parties pursuant to Section 8.1 prior to any such disclosure;

(g) upon the prior written consent of the Disclosing Party; or

(h) disclosure to actual and potential licensees, acquirors, investors and other sources of funding, including underwriters, debt financing, royalty financing partners, or co-investors, and their respective accountants, financial advisors and other professional representatives ("Financial Advisors"), provided, that such disclosure shall be made only to the extent customarily required to consummate such investment, financing transaction, collaboration or acquisition and that each recipient of Confidential Information must be bound by customary obligations of confidentiality and non-use prior to any such disclosure;

provided that, in the event the Receiving Party is required to make a disclosure of the Disclosing Party's Confidential Information pursuant to Sections 8.2(a), (b), (c) or (d), it will, except where impracticable, give reasonable advance written notice to the Disclosing Party of such disclosure and use reasonable efforts to secure confidential treatment of such information. In any event, the Buyer shall not file or assist any Third Party in filing any patent application based upon or using the Confidential Information of the Seller provided hereunder.

The Receiving Party shall be liable to the Disclosing Party for any breach by its Affiliates or Representatives in the case of any disclosure made by a Receiving Party under Section 8.2(f) and any of its Financial Advisors in the case of any disclosure made by a Receiving Party under Section 8.2(h), if any such Person violates the terms of its confidentiality obligation or any of the terms set forth in this Agreement as if such Person was a party hereto.

The Buyer hereby acknowledges that the Seller may from time to time provide the Buyer with information that may constitute material non-public information with respect to itself and Licensees. Seller makes no representation or warranty and assumes no duty to inform Buyer whether any information delivered to Buyer pursuant to this Agreement constitutes material non-public information. The Buyer hereby agrees that it shall not, and shall cause its Affiliates or Representatives to not, trade any securities of the Seller or any Licensee while in possession of any information received by it from the Seller pursuant to this Agreement in violation of securities laws.

Notwithstanding anything set forth in this Agreement, including this Section 8.2, materials and documentation relating to the Seller's Intellectual Property Rights may be only disclosed to or accessed by Buyer and its attorneys, without further disclosure to any other Representative of Buyer.

ARTICLE 9

MISCELLANEOUS

Section 9.1 Definitions. As used in this Agreement, the following terms shall have the following meanings:

"Acceptable Intercreditor Agreement" means, with respect to any secured Indebtedness permitted hereunder, (a) an intercreditor or other agreement between the Buyer and the Senior Debt Provider providing (i) that such Senior Debt Provider shall not, directly or indirectly, contest or challenge, or support any Person in contesting or challenging, the true sale characterization of the sale of the Revenue Participation Right to the Buyer or the Buyer's rights with respect to the Back-Up Security Interest; (ii) that such Senior Debt Provider shall have the first right of enforcement in any Liens on the Product Assets until the expiration of a standstill period to be agreed; (iii) if the Senior Debt Provider in the course of exercising its enforcement rights with respect to the Product Assets sells or otherwise transfers any Product Assets, such Product Assets shall be transferred subject to the rights of the Buyer with respect to the Revenue Participation Right, the Royalty and the Royalty Payments on terms materially consistent with this Agreement or otherwise satisfactory to the Buyer in its reasonable discretion; (iv) after the occurrence of an insolvency proceeding, the Buyer shall not oppose any disposition of the Product Assets so long as the Product Assets so disposed of are purchased subject to the rights of the Buyer with respect to the Revenue Participation Right, the Royalty and the Royalty Payments on terms materially consistent with this Agreement (including the same or equivalent Liens provided hereunder) or otherwise satisfactory to the Buyer in its reasonable discretion; (v) in the event of any direct or indirect sale, transfer or other disposition of the Product Assets, if such Product Assets are not transferred subject to the rights of the Buyer with respect to the Revenue Participation Right, the Royalty and the Royalty Payments on terms materially consistent with this Agreement (including the same or equivalent Liens provided hereunder) or otherwise satisfactory to the Buyer in its reasonable discretion, then the proceeds from such disposition shall be subject to a waterfall pursuant to which the Buyer shall be entitled to a percentage of the proceeds equal to the then applicable Product Royalty Rate; (vi) other provisions reasonably satisfactory to the Senior Debt Provider and the Buyer consistent with clause (i)-(v) above and consistent with the premise that the Senior Debt Provider shall have the primary right to (x) enforce the Liens with respect to the Product Assets and (y) decide other customary intercreditor matters such as pay-over provisions and provisions regarding DIP financings; and (vii) the Buyer shall not interfere with such Senior Debt Provider enforcing its rights and remedies as a secured creditor under the UCC, any Bankruptcy Laws and any other applicable law (to the extent such enforcement is not inconsistent with clauses (i)-(vi) above), and (b) any other intercreditor agreement between the Buyer and a Senior Debt Provider in form and substance reasonably satisfactory to the Buyer, such Senior Debt Provider and the Seller.

"Additional Purchase Prices" means the oHCM Payment and the nHCM Payment.

"Affiliate" means, with respect to any Person, any other Person, directly or indirectly, controlling, controlled by or under common control with such Person. Solely for purposes of this definition, the term "control" (including the correlative terms "controlling," "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise. For clarity, the Buyer shall not be considered an Affiliate of the Seller for the purpose of this Agreement.

"Agreement" is defined in the preamble.

"Applicable Indications" means nHCM and oHCM.

"Back-Up Security Interest" is defined in Section 1.4.

"Bankruptcy Laws" means, collectively, in any jurisdiction, bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance, fraudulent transfer or other similar laws affecting the enforcement of creditors' rights generally.

"Bundled Product" is defined in the definition of Net Sales.

"Business Day" means any day other than (a) a Saturday or Sunday or (b) a day on which banking institutions located in New York are permitted or required by applicable law or regulation to remain closed.

"Buyer" is defined in the preamble.

"Buyer Indemnified Parties" is defined in Section 6.1(a).

"Change of Control" means, with respect to the Seller: (a) a transaction or series of related transactions that results in the sale or other disposition of all or substantially all of the Seller's assets (other than any such sale or other disposition to a Subsidiary or Affiliate of the Seller), on a consolidated basis; or (b) a merger or consolidation as a result of which the shareholders of the Seller immediately prior to the consummation of such merger or consolidation do not, immediately after consummation of such merger or consolidation, possess, directly or indirectly through one or more intermediaries, a majority of the voting power of all of the surviving entity's outstanding stock and other securities and the power to elect a majority of the members of the Seller's board of directors; or (c) a transaction or series of related transactions (which may include a tender offer for the Seller's stock or the issuance, sale or exchange of stock of the Seller) if the shareholders of the Seller immediately prior to the initial such transaction do not, immediately after consummation of such transaction or any of such related transactions, possess, directly or indirectly through one or more intermediaries, a majority of the voting power of all of the Seller's or its successor's outstanding stock and other securities and the power to elect a majority of the members of the Seller's or its successor's board of directors.

"Clinical Trial" means a clinical trial of the Product in humans.

"Clinical Updates" means a summary of any material updates with respect to the Clinical Trials conducted by or on behalf of the Seller or a counterparty to any Out-License, including (a) the progress of each Clinical Trial for the Product (including the number of patients currently enrolled in each such Clinical Trial, the number of sites conducting each such Clinical Trial, and any material modifications to each such Clinical Trial, and any serious adverse events attributed to the Product), and (b) the Seller's then-existing plans to start new Clinical Trials, in each case since the later of the date hereof and the date of delivery of the prior Clinical Update.

"CMC" means chemistry, manufacturing and controls with respect to the Product.

"Co-Packaged Product" is defined in the definition of Net Sales.

"Commercial Updates" means a summary of material updates with respect to the Seller's and its Affiliates' and any licensee's sales and marketing activities and commercial manufacturing matters with respect to the Product, in each case since the later of the date hereof and the date of delivery of the prior Commercial Update.

"Commercialization" means any and all reasonable activities directed to the commercial manufacture, distribution, marketing, detailing, promotion, selling and securing of reimbursement of the Product whether before or after Marketing Approval has been obtained (including the making, using, importing, selling and offering for sale of the Product), and shall include post-Marketing Approval studies, post-launch marketing, promoting, detailing, marketing research, distributing, customer service, selling the Product, importing, exporting or transporting the Product for sale, and regulatory compliance with respect to the foregoing. When used as a verb, "Commercialize" means to engage in Commercialization.

"Confidential Information" is defined in Section 8.1.

"Control" or "Controlled" means, with respect to Patent Rights and Intellectual Property Rights, that a party has the legal authority or right (whether by ownership, license or otherwise) to grant to the other party a license, sublicense, access or other right (as applicable) under such Patent Rights and Intellectual Property Rights, on the terms and conditions set forth herein, in each case without breaching the terms of any agreement with a Third Party.

"Development Notice" is defined in Section 7.5.

"Disclosing Party" is defined in Section 8.1.

"Disclosure Schedule" means the Disclosure Schedule delivered to the Buyer (or to its counsel) by the Seller concurrently with the execution of this Agreement.

"EMA" means the European Medicines Agency, or any successor agency thereto.

"Existing Indebtedness" is the indebtedness of Seller to Oxford Finance LLC and Silicon Valley Bank pursuant to that certain Loan and Security Agreement, dated May 17, 2019 (as amended from time to time, including by that certain First Amendment to Loan and Security Agreement dated as November 6, 2019, that certain Second Amendment to Loan and Security Agreement dated as November 7, 2019, that certain Third amendment to Loan and Security Agreement dated as of July 16, 2020, and that certain Fourth Amendment to Loan and Security Agreement dated as of June 30, 2021, entered into by and between Oxford Finance LLC, Silicon Valley Bank and Seller).

"Existing Out-License" is defined in Section 3.1(h)(ii).

"FCPA" is defined in Section 3.1(l).

"FDA" means the U.S. Food and Drug Administration, or any successor agency thereto.

"FFDCA" means the United States Federal Food, Drug and Cosmetics Act, as amended.

"Final Determination Date" is defined in the definition of "Product Royalty Rate."

"Financial Advisors" is defined in Section 8.2.

"First Commercial Sale" means, the first sale for use or consumption by the general public of the Product. For clarity, First Commercial Sale shall not include any sale or transfer of the Product prior to receipt of Marketing Approval, such as so-called "treatment IND sales," "named patient sales" and "compassionate use sales."

"GAAP" means generally accepted accounting principles in the United States in effect from time to time.

"Governmental Entity" means any: (a) nation, principality, republic, state, commonwealth, province, territory, county, municipality, district or other jurisdiction of any nature; (b) federal, state, local, municipal, foreign or other government; (c) governmental or quasi-governmental authority of any nature (including any governmental division, subdivision, department, agency, bureau, branch, office, commission, council, board, instrumentality, officer, official, representative, organization, unit, body or other entity and any court, arbitrator or other tribunal); (d) multi-national organization or body; or (e) individual, body or other entity exercising, or entitled to exercise, any executive, legislative, judicial, administrative, regulatory, police, military or taxing authority or power of any nature.

"Indebtedness" of any Person means any indebtedness for borrowed money, obligation evidenced by a note, bond, debenture or similar instrument, or guarantee of any of the foregoing.

"In-License" means any license, settlement agreement or other agreement between the Seller or any of its Affiliates and any Third Party pursuant to which the Seller or any of its Affiliates obtains a license, a covenant not to sue or similar grant of rights to any Patents or other intellectual property rights of such Third Party that is or was reasonably necessary or useful for the Commercialization of the Product which require royalty, milestone or other payment to such Third Party to use such Patents or other intellectual property rights to Commercialize the Product.

"Initiation" of a Clinical Trial means [*].

"Intellectual Property Rights" means, any and all of the following as they are owned or Controlled by the Seller or any Subsidiary or under which the Seller or any Subsidiary may become empowered to grant licenses: (a) the Patent Rights; (b) rights in registered and unregistered trademarks, service marks, trade names, trade dress, logos, packaging design, slogans and Internet domain names, and registrations and applications for registration of any of the foregoing, in each case, used in the marketing and promotion of the Product; (c) copyrights in both published and unpublished works, including all compilations, databases and computer programs, manuals and other documentation and all copyright registrations and applications, and all derivatives, translations, adaptations and combinations of the above, in each case, as specifically related to the Product; (d) rights in research in progress, algorithms, data, databases, data collections, chemical and biological materials (including any compounds, DNA, RNA, clones, vectors, cells and any expression product, progeny, derivatives or improvements thereto), and the results of experimentation and testing, including samples, in each case, as specifically directly related to the Product; and (e) rights in all Know-How directly related to the Product that is reasonably necessary for the manufacture, use or Commercialization of the Product.

"Intellectual Property Updates" means a list of new Patents issued or filed relating to the Product, or any abandonments or other termination of prosecution with respect to any of the Patent Rights, and any other material information or developments with respect to the Intellectual Property Rights, in each case since the later of the date hereof and the date of delivery of the prior Intellectual Property Update. For the avoidance of doubt, the Seller shall not be required to include any trade secrets or attorney client privileged information in any Intellectual Property Update.

"Ji Xing" means Ji Xing Pharmaceuticals Limited, a company organized under the laws of the Cayman Islands.

"Ji Xing Collaboration Agreement" means that certain License and Collaboration Agreement, dated as of July 14, 2020, between the Seller and Ji Xing.

"Judgment" means any judgment, order, writ, injunction, citation, award or decree of any nature.

"Know-How" means any and all proprietary or confidential information, know-how and trade secrets, including processes, formulae, models and techniques (but excluding rights in research in progress, algorithms, data, databases, data collections, chemical and biological materials and the results of experimentation and testing).

"Knowledge of the Seller" means the actual knowledge of [*], after reasonable due inquiry.

"Licensee" means a licensee under any Out-License.

"Lien" means any mortgage, lien, pledge, charge, adverse claim, security interest, encumbrance or hypothecation of any kind, in each case to secure payment of a debt or performance of an obligation.

"Loss" means any and all Judgments, damages, losses, claims, costs, liabilities and expenses, including reasonable fees and out-of-pocket expenses of counsel.

"Loss of Market Exclusivity" means, on a country by country basis, the date that is the later of (a) the last patent expiration that includes a valid claim of an issued patent or a pending patent application in such country that covers the composition of matter or the formulation, method of making or method of using the Product in such country, and (b) the expiration of all regulatory exclusivity for the Product in such country; provided that with respect to Ji Xing in the Territory (as defined in the Ji Xing Collaboration Agreement), Loss of Market Exclusivity means the expiration of the Royalty Term (as defined in the Ji Xing Collaboration Agreement).

"Marketing Approval" means, with respect to the Product in any Royalty Purchase Territory, approval from the applicable Regulatory Authority sufficient for the promotion and sale of the Product in such jurisdiction in accordance with applicable law, including, without limitation, a New Drug Application in the United States.

"Material Adverse Effect" means [*].

"MHRA" means the Medicines and Healthcare products Regulatory Agency in the United Kingdom, or any successor agency thereto.

"NDA" means a New Drug Application, as defined in the FFDCA and applicable regulations promulgated thereunder by the FDA, or any corresponding non-U.S. application, registration or certification filed with a non-U.S. Regulatory Authority.

"Net Sales" means [*]

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"nHCM" means non-obstructive hypertrophic cardiomyopathy.

"nHCM Payment" is defined in Section 2.2(c).

"oHCM" means obstructive hypertrophic cardiomyopathy.

"oHCM Payment" is defined in Section 2.2(b).

"Other Indication" means [*].

"Other Indication Purchase Price" is defined in Section 2.3.

"Out-License" means any license or other agreement between the Seller or any of its Affiliates and any Third Party pursuant to which the Seller or any of its Affiliates grants to such Third Party a license or sublicense of, covenant not to sue under, or other similar rights under any Intellectual Property Right that is reasonably necessary for the Commercialization of the Product in the Royalty Purchase Territory in order for such Third Party to Commercialize the Product; provided, however, that "Out-License" shall not include (a) any research licenses; (b) licenses to distributors, without any other right to Commercialize the Product; (c) agreements granting non-exclusive rights to Intellectual Property Rights that do not grant any right to market, distribute, sell, or promote the Product, including, but not limited to, manufacturing agreements, material transfer agreements and consulting agreements.

"Overpaid Royalty" means the portion of Royalty Payment paid to the Buyer during the period between the Scheduled Funding Date and the Final Determination Date (if any) in an amount equal to the aggregate Net Sales during such period in each country in the Royalty Purchase Territory multiplied by 1%. For the avoidance of doubt, if (i) the applicable Additional Purchase Price is paid within [*] days of the Scheduled Funding Date or (ii) it is finally agreed or adjudicated that the Buyer is not required to pay any Additional Purchase Price, no Overpaid Royalty shall have accrued hereunder.

"Patent Rights" means any and all existing or future Patents that are owned, exclusively in-licensed or otherwise Controlled by the Seller or any Subsidiary or under which the Seller or any Subsidiary is or may become empowered to grant licenses, the subject matter of which is necessary, reasonably useful or actually used for the development, manufacture, use, marketing, promotion, sale or distribution of the Product.

"Patents" means any and all existing and future patents and patent applications, including any continuation, continuation-in-part, division, provisional or any substitute applications, or any patent application claiming priority thereto, including patent applications filed under the Patent Cooperation Treaty or any patent application claiming priority under the Paris Convention, any patent issued with respect to any of the foregoing patent applications, any certificate, reissue, reexamination, renewal or patent term extension or adjustment (including any supplementary protection certificate) of any such patent or other governmental actions which extend any of the subject matter of a patent, and any substitution patent, confirmation patent or registration patent or patent of addition based on any such patent, and all foreign counterparts of any of the foregoing.

"Payment Milestone Date" means the date that the total amount of Royalty Payments paid to the Buyer equals or exceeds [*]% of the amounts funded by the Buyer pursuant to Section 2.2 and Section 2.3 as of the date of determination; provided if such date has not occurred by [*], the "Payment Milestone Date" shall be deemed not to have occurred under this Agreement and the Seller shall continue to be bound by the prohibitions in the first sentence of Section 5.10.

"Permitted Liens" means (a) Liens for Taxes not yet delinquent or Liens for Taxes being contested in good faith and by appropriate proceedings for which adequate reserves have been established; (b) banker's liens for collection or rights of set off or similar rights and remedies as to deposit accounts or other funds maintained with depositary institutions; (c) any license grant to a licensee under an Out-License or any other licenses not prohibited hereunder; (d) Liens in the nature of right of setoff in favor of counterparties to contractual agreements with the Seller in the ordinary course of business; (e) Liens securing Permitted Secured Indebtedness; and (f) any retained rights of a licensor under any in-license.

"Permitted Secured Indebtedness" has the meaning given to such term in the RP Loan Agreement.

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

"Pivotal Clinical Trial" means any human Clinical Trial of the Product that is designed (as of the time of Initiation of such Clinical Trial) to obtain the results and data to support the filing of a New Drug Application (NDA) (including label expansion but excluding the data that may be necessary to support the pricing and/or reimbursement approval), including so called Phase 2/3 trials and any human Clinical Trial that would satisfy the requirements of 21 § CFR 312.21(c) or corresponding foreign regulations.

"PMDA" means the Pharmaceuticals and Medical Devices Agency in Japan.

"Press Release" means one or more press releases describing this Agreement and the transactions contemplated by this Agreement issued individually by the Buyer and/or the Seller in form reasonably satisfactory to the other party.

"Product" means any pharmaceutical that contains the Seller's proprietary small molecule cardiac myosin inhibitor product, referred to as *aficamten* (also formerly known as CK-274), and any current or future forms thereof, including any reformulations, prodrugs, metabolites, racemates, deuterated forms, pharmaceutical hydrates, solvates, salts, crystalline, bases, esters, isomers, optical isomers, or polymorphs thereof, in any strength, form, formulation, regimen, administration or delivery route.

"Product Assets" means the Seller's and its Affiliates' rights, title and interests in the Product (including all inventory of the Product) and Product Rights owned, licensed or otherwise held by the Seller or any of its Affiliates and any proceeds thereof, including all accounts receivable and general intangibles resulting from the sale, license or other disposition of Product by the Seller or its Affiliates; provided, however, that, upon a Change of Control of the Seller, no Product Rights owned, in-licensed or otherwise held by the acquiring entity (or any of its Affiliates existing prior to such Change of Control or acquired after such Change of Control) as of immediately prior to the closing of such Change of Control (or in the case of an acquired Affiliate, as of immediately prior to the closing of such acquisition) or any Patents determined to have priority to any Patent Rights included therein or other intellectual property rights will be deemed "owned, licensed or otherwise held" for the purposes of this definition. Notwithstanding the foregoing, "Product Assets" shall not include raw materials, work in progress, deposit or securities accounts, chattel paper, instruments, cash or cash equivalents.

"Product Failure" means, with respect to the Product, the occurrence of: [*].

"Product Rights" means any and all of the following: (a) Intellectual Property Rights, (b) regulatory filings, submissions and approvals with or from any Regulatory Authorities specifically related to the Product, including any clinical data thereunder, (c) In-Licenses, and (d) Out-Licenses; provided that Product Rights shall only include those related to the Applicable Indications until such time as the Other Indication Purchase Price is paid, and following the payment of the Other Indication Purchase Price, Product Rights shall include those related to all Product indications.

"Product Royalty Rate" means the percentage of annual worldwide Net Sales of the Product during a calendar year that is applicable in accordance with the table immediately below:

Annual Worldwide Net Sales	Product Royalty Rate
Less than or equal to $1,000,000,000	4.50%
Greater than $1,000,000,000	3.50%

provided that in the event that (i) the Seller and the Buyer fail to agree on mutually acceptable additional purchases or royalties to fund the development of the Product in any Other Indication pursuant to Section 2.3 and the Buyer has not paid to the Seller the Other Indication Purchase Price and (ii) the Product receives Marketing Approval in the United States for (x) oHCM and (y) any Other Indication, beginning with the calendar quarter during which such Marketing Approvals in subclauses (x) and (y) have been received, the then applicable Product Royalty Rate shall be revised in accordance with the table immediately below:

Annual Worldwide Net Sales	Product Royalty Rate
Less than or equal to $1,000,000,000	4.50%
Greater than $1,000,000,000	2.50%

provided further that the 3.5% Product Royalty Rate in the first table above shall be reduced to [*]% and the 2.50% Product Royalty Rate in the second table above shall be reduced to [*]% if [*].

Notwithstanding the foregoing, on a country-by-country basis, the Product Royalty Rate applicable to Net Sales by any Licensee in any country after Loss of Market Exclusivity in such country shall not exceed the royalty rate payable by such Licensee to the Seller for such Net Sales in such country.

"Purchase Price" is defined in Section 1.2.

"Quarterly Deadline" means: (i) with respect to each of the first three calendar quarters in each calendar year, forty-five (45) calendar days after the end of such calendar quarter and (ii) with respect to last calendar quarter in each calendar year, seventy-five (75) calendar days after the end of such calendar quarter.

"Receiving Party" is defined in Section 8.1.

"REDWOOD-HCM" means the Clinical Trial entitled Randomized Evaluation of Dosing With CK-274 in Obstructive Outflow Disease in HCM.

"Regulatory Authority" means any national or supranational governmental authority, including, without limitation, the FDA, the EMA, the MHRA, the PMDA, or any successor agency thereto, that has responsibility in granting a Marketing Approval.

"Regulatory Updates" means a summary of material information and developments that would reasonably be expected to materially impact the Product with respect to any regulatory filings or submissions made to the FDA, the EMA, the MHRA or other Regulatory Authority since the later of the date hereof and the date of delivery of the prior Regulatory Update.

"Reinstatement Development" is defined in Section 7.5.

"Representative" means, with respect to any Person, (a) any direct or indirect stockholder, member or partner of such Person and (b) any manager, director, officer, employee, agent, advisor or other representative (including attorneys, accountants, consultants, bankers, financial advisors and actual and potential lenders and investors) of such Person.

"Revenue Participation Right" means all of the Seller's right, title and interest in, to and under the Royalty (including the right to receive the Royalty Payments), whether now owned or existing or hereafter arising or acquired, together with all proceeds thereof, for the term of this Agreement subject to the terms and conditions set forth herein.

"Royalty" means an undivided percentage ownership interest of Net Sales, in a percentage equal to the aggregate Net Sales during each calendar quarter in each country in the Royalty Purchase Territory multiplied by the then applicable Product Royalty Rate.

"Royalty Payment" means an amount payable to the Buyer equal to the aggregate Net Sales during the applicable calendar quarter in each country in the Royalty Purchase Territory multiplied by the then applicable Product Royalty Rate.

"Royalty Purchase Territory" means worldwide.

"Royalty Report" is defined in Section 5.2(b).

[*]

"RP Loan Agreement" means that certain development funding loan agreement, of even date herewith, between the Seller (as borrower thereunder) and Royalty Pharma Development Funding, LLC (as lender(s) thereunder) and the agreements and instruments contemplated thereby.

"RTW" means RTW Investments ICAV.

"RTW Agreement" means that certain Funding Agreement, dated July 14, 2020, between Seller and RTW (as successor in interest to RTW Royalty Holdings Designated Activity Company (f/k/a Dolya Holdco 19 Designated Activity Company).

"RTW Termination Notice" is defined in Section 4.1(k).

"Safety Notices" means any recalls, field notifications, market withdrawals, warnings, "dear doctor" letters, investigator notices, safety alerts or other notices of action issued or instigated by the Seller, any of its Affiliates or any Regulatory Authority relating to an alleged lack of safety or regulatory compliance of a Product.

"Scheduled Funding Date" is defined in the definition of "Product Royalty Rate."

"SEC" means the Securities and Exchange Commission.

"Seller" is defined in the preamble.

"Seller Indemnified Parties" is defined in Section 6.1(b).

"Senior Debt Provider" means, collectively, the lenders or providers (or its or their agents or representatives, as applicable) of Indebtedness secured by Lien(s) on any of the Product Assets that enter into an Acceptable Intercreditor Agreement executed and delivered by the Buyer, the Seller, and the applicable Senior Debt Provider.

"Similarly Situated Company" shall mean [*].

"sNDA" means a supplemental New Drug Application, as defined in the FFDCA and applicable regulations promulgated thereunder by the FDA, or any corresponding non-U.S. application, registration or certification filed with a non-U.S. Regulatory Authority.

"Specified Efforts" means, [*].

"Subsidiary" means with respect to the Seller any and all corporations, partnerships, limited liability companies, joint ventures, associations and other entities controlled (by contract or otherwise) by the Seller directly or indirectly through one or more intermediaries.

"Tax" or "Taxes" means any present or future U.S. federal, state, local or non-U.S. income, gross receipts, license, payroll, employment, excise, severance, occupation, premium, windfall profits, environmental, customs duties, capital stock, franchise, profits, withholding, social security, unemployment, disability, real property, personal property, abandoned property, value added, alternative or add-on minimum, estimated or other tax of any kind whatsoever, including any interest, penalty or addition thereto, whether disputed or not.

"Third Party" means any Person other than the parties hereto (or an Affiliate of such parties).

"Third Party Claim" is defined in Section 6.2.

"Total Net Payments" means as of any date of determination:

(a) the aggregate amount of all Royalty Payments remitted to, or otherwise received by, Buyer pursuant to this Agreement as of such date (including any payments made pursuant to Section 5.5(a)), *less*

(b) all overpayments of Royalty Payments under this Agreement required to be, and actually, reimbursed by the Buyer to the Seller pursuant to Section 5.4 but only to the extent that such overpayments have been included in the calculation under the immediately preceding clause (a), and provided that no prepayment made by the Seller pursuant to Section 5.2(d) shall be deemed an overpayment of Royalty Payments due to the Buyer hereunder provided such credit occurs.

"Transaction Agreements" means, collectively, this Agreement, the Bill of Sale and the RP Loan Agreement.

"Triggering nHCM Trial" is defined in Section 2.2(c).

"Triggering oHCM Trial" is defined in Section 2.2(b).

"UCC" means the Uniform Commercial Code (or any similar or equivalent legislation) as in effect in any applicable jurisdiction.

"Update Report" is defined in Section 5.1(a).

Section 9.2 Certain Interpretations. Except where expressly stated otherwise in this Agreement, the following rules of interpretation apply to this Agreement:

(a) "either" and "or" are not exclusive and "include," "includes" and "including" are not limiting and shall be deemed to be followed by the words "without limitation;"

(b) "extent" in the phrase "to the extent" means the degree to which a subject or other thing extends, and such phrase does not mean simply "if;"

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

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

(e) definitions are applicable to the singular as well as the plural forms of such terms;

(f) unless otherwise indicated, references to an "Article", "Section" or "Exhibit" refer to an Article or Section of, or an Exhibit to, this Agreement, and references to a "Schedule" refer to the corresponding part of the Disclosure Schedule;

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

(h) references to an agreement or other document include references to any annexes, exhibits and schedules attached thereto; and

(i) references to a law include any amendment or modification to such law and any rules and regulations issued thereunder, whether such amendment or modification is made, or issuance of such rules and regulations occurs, before or after the date of this Agreement.

Section 9.3 **Headings**. The table of contents and the descriptive headings of the several Articles and Sections of this Agreement and any Exhibits and Schedules are for convenience only, do not constitute a part of this Agreement and shall not control or affect, in any way, the meaning or interpretation of this Agreement.

Section 9.4 **Notices**. All notices and other communications under this Agreement shall be in writing and shall be by email with PDF attachment, facsimile, courier service or personal delivery to the following addresses, or to such other addresses as shall be designated from time to time by a party hereto in accordance with this Section 9.4:

If to the Seller, to it at:

Cytokinetics, Incorporated
350 Oyster Point Boulevard
South San Francisco, CA 94080
Attn: General Counsel
Telephone: [*]
Facsimile: [*]
Email: [*]

with a copy to:

Cooley LLP
101 California Street,
San Francisco, CA 94111
Attention: Gian-Michele a Marca
Telephone: [*]
Facsimile: [*]
Email: [*]

If to the Buyer, to it at:

Royalty Pharma Investments 2019 ICAV
110 E. 59th Street, Suite 3300
New York, New York 10022
Attention: George Lloyd
Email: [*]

with a copy to:

Goodwin Procter LLP
100 Northern Avenue
Boston, Massachusetts 02210
Attention: Arthur R. McGivern, Jacqueline Mercier & Robert M. Crawford, Jr.
Email: [*]

All notices and communications under this Agreement shall be deemed to have been duly given (i) when delivered by hand, if personally delivered, (ii) when received by a recipient, if sent by email, with an acknowledgment of receipt being produced by the recipient's email account, (iii) when sent, if sent by facsimile, with an acknowledgement of sending being produced by the sending facsimile machine or (iv) one Business Day following sending within the United States by overnight delivery via commercial one-day overnight courier service.

Section 9.5 **Expenses**. Except as otherwise provided herein, all fees, costs and expenses (including any legal, accounting and banking fees) incurred in connection with the preparation, negotiation, execution and delivery of this Agreement and to consummate the transactions contemplated hereby shall be paid by the party hereto incurring such fees, costs and expenses.

Section 9.6 **Assignment**. The Seller shall not sell, convey, assign, dispose, pledge, hypothecate or otherwise transfer this Agreement, any of its rights or obligations hereunder, without the Buyer's prior written consent, except in connection with the sale, license or transfer of all or substantially all of the Seller's business or assets related to the Product (including this Agreement), whether by merger, sale of assets, license, reorganization or otherwise; provided that, in each case upon closing of any such transaction, the Seller causes such Affiliate or Third Party, as applicable, to deliver a writing to the Buyer in which it assumes all of the obligations of the Seller to the Buyer under this Agreement; provided that nothing in this Section 9.6 shall restrict the grant or incurrence of Permitted Liens. The Buyer may assign this Agreement in whole or in part (it being understood that the Buyer shall remain liable for its or its assignees' obligations under this Agreement); [*]. Subject to the foregoing, this Agreement shall be binding upon, inure to the benefit of and be enforceable by, the parties hereto and their respective permitted successors and assigns. Any purported sale, conveyance, assignment, disposition, pledge, hypothecation or transfer in violation of this Section 9.6 shall be null and void.

Section 9.7 **Amendment and Waiver**.

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

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

Section 9.8 **Entire Agreement**. This Agreement, the Exhibits annexed hereto and the Disclosure Schedule constitute the entire understanding between the parties hereto with respect to the subject matter hereof and supersede all other understandings and negotiations with respect thereto.

Section 9.9 **No Third Party Beneficiaries**. This Agreement is for the sole benefit of the Seller and the Buyer and their permitted successors and assigns and nothing herein expressed or implied shall give or be construed to give to any Person, other than the parties hereto and such successors and assigns, any legal or equitable rights hereunder.

Section 9.10 **Governing Law**. This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York without giving effect to any choice or conflict of law provision or rule that would cause the application of the laws of any other jurisdiction.

Section 9.11 JURISDICTION; VENUE.

(a) EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS RESPECTIVE PROPERTY AND ASSETS, TO THE EXCLUSIVE JURISDICTION OF ANY NEW YORK STATE COURT OR FEDERAL COURT OF THE UNITED STATES OF AMERICA SITTING IN NEW YORK COUNTY, NEW YORK, AND ANY APPELLATE COURT THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT, OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT IN RESPECT THEREOF, AND THE BUYER AND THE SELLER HEREBY IRREVOCABLY AND UNCONDITIONALLY AGREE THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN ANY SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. THE BUYER AND THE SELLER HEREBY AGREE THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY APPLICABLE LAW. EACH OF THE BUYER AND THE SELLER HEREBY SUBMITS TO THE EXCLUSIVE PERSONAL JURISDICTION AND VENUE OF SUCH NEW YORK STATE AND FEDERAL COURTS. THE BUYER AND THE SELLER AGREE, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THAT PROCESS MAY BE SERVED ON THE BUYER OR THE SELLER IN THE SAME MANNER THAT NOTICES MAY BE GIVEN PURSUANT TO SECTION 9.4 HEREOF.

(b) EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT IT MAY LEGALLY AND EFFECTIVELY DO SO, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT IN ANY NEW YORK STATE OR FEDERAL COURT. EACH OF THE BUYER AND THE SELLER HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

Section 9.12 Severability. If any term or provision of this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any situation in any jurisdiction, then, to the extent that the economic and legal substance of the transactions contemplated hereby is not affected in a manner that is materially adverse to either party hereto, all other terms and provisions of this Agreement shall nevertheless remain in full force and effect and the enforceability and validity of the offending term or provision shall not be affected in any other situation or jurisdiction.

Section 9.13 Specific Performance. Each of the parties acknowledges and agrees that the other party may be damaged irreparably in the event any of the provisions of this Agreement are not performed in accordance with their specific terms or otherwise are breached or violated. Accordingly, notwithstanding Article 6, each of the parties agrees that, without posting bond or other undertaking, the other party will be entitled to an injunction or injunctions to prevent breaches or violations of the provisions of this Agreement and to enforce specifically this Agreement and the terms and provisions hereof in any action, suit or other proceeding instituted in any court of the United States or any state thereof having jurisdiction over the parties and the matter in addition to any other remedy to which it may be entitled, at law or in equity. Each party further agrees that, in the event of any action for specific performance in respect of such breach or violation, it shall not assert that the defense that a remedy at law would be adequate.

Section 9.14 Relationship of Parties. The relationship between the Buyer and the Seller is solely that of purchaser and seller, and neither the Buyer nor the Seller has any fiduciary or other special relationship with the other party or any of its Affiliates. This Agreement is not a partnership or similar agreement, and nothing contained herein shall be deemed to constitute the Buyer and the Seller as a partnership, an association, a joint venture or any other kind of entity or legal form for any purposes, including any Tax purposes. The Buyer and the Seller agree that they shall not take any inconsistent position with respect to such treatment in a filing with any Governmental Entity.

Section 9.15 Counterparts. This Agreement may be executed in any number of counterparts and by the parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement. Copies of executed counterparts transmitted by telecopy, facsimile or other similar means of electronic transmission, including "***PDF***," shall be considered original executed counterparts, provided receipt of such counterparts is confirmed.

Section 9.16 Withholding.

(a) Each party shall be entitled to deduct and withhold from the payments otherwise required pursuant to this Agreement any such Taxes as the party may be required to deduct and withhold with respect to any such payments under applicable law (it being understood that, solely with respect to U.S. federal withholding Tax, a party shall not make any such deduction or withholding if such party has received a valid, properly executed Internal Revenue Service Form W-9 or W-8BEN-E, as applicable, certifying that other party or the relevant assignee, as applicable, is exempt from U.S. withholding Tax or U.S. federal withholding Tax on royalties pursuant to the U.S.-Ireland tax treaty, as applicable). If a party is required by applicable law to deduct and withhold any Taxes from any such payment, such party shall (i) use commercially reasonable efforts to provide advance written notice of any intention to withhold or deduct any Taxes from such payments to the other party, and (ii) to the extent any such withholding or deduction requirement cannot be mitigated pursuant to clause (b) below, pay the full amount deducted or withheld to the relevant Governmental Entity in accordance with applicable law. To the extent that amounts are so deducted or withheld and paid to the relevant Governmental Entity, except as set forth in the following sentence such deducted and withheld amounts will be treated for all purposes of this Agreement as having been paid to the applicable party. Notwithstanding this Section 9.16(a), if, as a result of a Withholding Action by the Seller (including any assignee or successor), withholding is required by applicable law and the amount of such withholding exceeds the amount of withholding that would have been required if the Seller had not committed the Withholding Action, then the Seller shall pay an additional amount to the Buyer such that, after withholding from the payment contemplated by this Agreement and such additional amount, the Buyer receives the same amount as it would have received from the Seller absent such Withholding Action by the Seller. For the avoidance of doubt, if as a result of a Withholding Action by the Buyer (including any assignee or successor, including any transfer pursuant to Section 9.6) the amount of withholding under the law of the applicable jurisdiction exceeds the amount of such withholding that would have been required in the absence of such Withholding Action by the Buyer, the Seller shall be required to pay an additional amount only to the extent that the Seller would be required to pay any additional amount to the Buyer pursuant to the preceding sentence if the Buyer had not committed such Withholding Action. For purposes of this Section 9.16(a), "Withholding Action" by a party means (i) a permitted assignment or sublicense of this Agreement (in whole or in part) by such party to an Affiliate or a Third Party in a different jurisdiction; (ii) the exercise by such party of its rights under this Agreement (in whole or in part) through an Affiliate or Third Party in a different jurisdiction (or the direct exercise of such rights by an Affiliate of such party outside of the applicable jurisdiction); (iii) a redomiciliation of such party, an assignee or a successor to a jurisdiction outside of the applicable jurisdiction; and (iv) any action taken after the date of this Agreement by such party that causes this Agreement or any payment contemplated by this Agreement to become subject to tax (including by virtue of withholding or deduction) in any additional jurisdictions after the date of this Agreement.

(b) The Buyer and the Seller hereby agree to cooperate in good faith to mitigate the amount of any of such Taxes which the Seller must withhold or deduct pursuant to this Section 9.16, provided, however, that the Buyer shall determine in its sole discretion whether, or the extent to which, its investors shall be involved or be required to be involved in connection with the foregoing.

(c) Notwithstanding anything herein to the contrary, (i) the parties hereunder shall make all payments required to be made pursuant to this Agreement in U.S. dollars by wire transfer of immediately available funds to the bank account designated in writing from time to time by the other party, and (ii) any such payments made by the Buyer shall be made so long as the Seller has provided to the Buyer a valid, properly executed Internal Revenue Service Form W-9 without set-off, reduction or deduction, or withholding for or on account of any U.S. federal withholding taxes.

(d) Provided that Buyer has provided an Internal Revenue Service Form W-9 or W-8BEN-E, as applicable, certifying that it is exempt from U.S. federal withholding Tax on royalties pursuant to the U.S.-Ireland tax treaty, the Buyer and Seller agree that as of the date hereof, the Seller is not required to deduct or withhold any Taxes with respect to any payments required to be made pursuant to this Agreement.

Section 9.17 Tax and Accounting Treatment. The Buyer and the Seller agree to treat, for U.S. federal income and other applicable tax purposes, (i) the transactions contemplated by this Agreement as a contractual sale arrangement between the Buyer and the Seller and not as indebtedness of the Seller, (ii) Buyer's payment of the Purchase Price as received by the Seller in a taxable transaction, (iii) the Seller's payment of the Royalty Payments as received by the Buyer in a taxable transaction and (iv) this Agreement as not giving rise to a partnership or similar arrangement, and nothing contained herein shall be deemed to constitute the Buyer and the Seller as a partnership, an association, a joint venture or any other kind of entity. Each of the Buyer and the Seller shall file all applicable Tax returns consistent with this Section 9.17. If there is an inquiry by any Governmental Entity of the Buyer or the Seller related to this Section 9.17, the Buyer and the Seller shall cooperate with each other in responding to such inquiry in a commercially reasonable manner consistent with this Section 9.17. The Buyer and the Seller agree that, if either determines in good faith that any provision hereunder is inconsistent with such treatment, the Buyer and Seller shall substitute, by mutual consent, provisions consistent with such intended tax treatment for such inconsistent provision, and such provisions shall be effective as of the date such substitution is made. Notwithstanding anything in this Agreement to the contrary, nothing in this Agreement shall prevent a party from reporting the transactions contemplated hereby in a manner required by GAAP.

[**Signature Page Follows**]

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

SELLER:

CYTOKINETICS, INCORPORATED

By: /s/ Robert I. Blum
Name: Robert I. Blum
Title: President & Chief Executive Officer

BUYER:

ROYALTY PHARMA INVESTMENTS 2019 ICAV

By: RP Management, LLC, its Manager and lawfully appointed attorney

By: /s/ George Lloyd
Name: George Lloyd
Title: EVP & General Counsel

EXHIBIT 23.1

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in the following Registration Statements:

1) Registration Statements (Form S-3 Nos. 333-215147, 333-221350, 333-231348 and 333-234537) of Cytokinetics, Incorporated, and
2) Registration Statements (Form S-8 Nos. 333-115146, 333-125973, 333-133323, 333-136524, 333-140963, 333-149713, 333-152850, 333-161116, 333-168520, 333-176089, 333-183091, 333-190458, 333-206101, 333-221348, 333-236889, 333-238786, 333-256054, and 333-260840) pertaining to the Amended and Restated 2004 Equity Incentive Plan of Cytokinetics, Incorporated;

of our reports dated February 25, 2022, with respect to the consolidated financial statements of Cytokinetics, Incorporated and the effectiveness of internal control over financial reporting of Cytokinetics, Incorporated included in this Annual Report (Form 10-K) of Cytokinetics, Incorporated for the year ended December 31, 2021.

/s/ Ernst & Young LLP

Redwood City, California
February 25, 2022

Exhibit 31.1

CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Robert I. Blum, certify that:

1. I have reviewed this Annual Report on Form 10-K of Cytokinetics, Incorporated;

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

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

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

By: /s/ Robert I. Blum
Robert I. Blum,
President, Chief Executive Officer and Director
(Principal Executive Officer)

Date: February 25, 2022

Exhibit 31.2

CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Ching W. Jaw, certify that:

1. I have reviewed this Annual Report on Form 10-K of Cytokinetics, Incorporated;

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

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

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

By: /s/ CHING W. JAW
Ching W. Jaw,
Senior Vice President, Chief Financial Officer
(Principal Financial Officer)

Date: February 25, 2022

Exhibit 31.3

CERTIFICATION OF PRINCIPAL ACCOUNTING OFFICER PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Robert C. Wong, certify that:

1. I have reviewed this Annual Report on Form 10-K of Cytokinetics, Incorporated;

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

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

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

By: /s/ ROBERT C. WONG
Robert C. Wong,
Vice President, Chief Accounting Officer (Principal Accounting Officer)

Date: February 25, 2022

Exhibit 32.1

CERTIFICATIONS PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002
(18 U.S.C. SECTION 1350)

In connection with the Annual Report on Form 10-K of Cytokinetics, Incorporated (the "Company") for the year ended December 31, 2021 as filed with the Securities and Exchange Commission on the date hereof (the "Annual Report"), each of the undersigned certifies, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

1. The Annual Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and

2. The information contained in this Annual Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

By: /s/ Robert I. Blum
Robert I. Blum,
President, Chief Executive Officer and Director
(Principal Executive Officer)

By: /s/ Ching W. Jaw
Ching W. Jaw,
Senior Vice President, Chief Financial Officer
(Principal Financial Officer)

By: /s/ Robert C. Wong
Robert C. Wong,
Vice President, Chief Accounting Officer
(Principal Accounting Officer)

Date: February 25, 2022